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PRIVATE AND LOCAL LAWS

PASSED BY THE

LEGISLATURE OF WISCONSIN,

IN THE YEAR

EIGHTEEN HUNDRED AND SIXTY-ONE.

PUBLISHED BY AUTHORITY.

MADISON, WIS.:

SMITH & CULLATON, STATE PRINTERS.—ARGUS OFFICE.

1861.

DTEI A S Y

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LIST OF OFFICERS AND MEMBERS.

"SECTION 1. * * * There shall be prefixed to each volume of the laws hereafter published, the names and residences of the several state officers, the senators and members of assembly, and the presiding officers and clerks of both branches of the legislature, at the time of the passage of such laws."—*General laws of* 1864, *chapter* 94.

NAMES AND RESIDENCES

Of the state officers, senators, members of the assembly, presiding officers and clerks of both branches of the legislature, in office at the time of the passage of the laws contained in this volume.

NAME.	OFFICE.	RESIDENCE.	
		Post Office.	*County.*
Alexander W. Randall,	Governor,	Waukesha	Waukesha.
Wm. H. Watson,	Priv. Sec'y to Governor,	Milwaukee	Milwaukee.
Butler G. Noble,	Lieutenant Governor,	Whitewater	Walworth.
Louis P. Harvey,	Secretary of State,	Shopiere	Rock.
Edward Ilsley,	Ass't Secretary of State,	Madison	Dane.
Samuel D. Hastings,	State Treasurer,	Trempealeau	Trempealeau.
Chauncey H. Purple,	Ass't State Treasurer,	Waukesha	Waukesha.
James H. Howe,	Attorney General	Green Bay	Brown.
James O. Culver,	Ass't Attorney General.	Milwaukee	Milwaukee.
Josiah L. Pickard,	State Superintendent,	Platteville	Grant.
A. J. Craig,	Ass't State Sup't.,	Palmyra	Jefferson.
Gysbert Van Steenwyk,	Bank Comptroller,	Kilbourn City	Columbia.
J. Peter D. Voswinkle,	Ass't Bank Comptroller,	Milwaukee	Milwaukee.
Hans C. Hegg,	State Pris Commissioner	Racine	Racine.
L. C. Evans,	Ass't Pris. Commssioner	Waupun	Fond du Lac.
Samuel C. Bean,	State Librarian	Sun Prairie	Dane.
Rufus Parks,	Sup't Public Property,	Waterville	Waukesha.
Luther H. Cary,	Senator	Greenbush	Sheboygan.
Edward Decker,	do.	Kewaunee	Kewaunee.
Hugh Cunning,	do.	Ozaukee	Ozaukee.
Densmore W. Maxon,	do.	Cedar Creek	Washington.
Charles Quentin,	do.	Milwaukee	Milwaukee.
Michael J. Egan,	do.	Milwaukee	Milwaukee.
William L. Utley,	do.	Racine	Racine.
Geo. Bennett,	do.	Kenosha	Kenosha.
John T. Kingston,	do.	Necedah	Juneau.
Dennis Worthington,	do.	Summit	Waukesha,
Samuel C. Bean,	do.	Sun Prairie	Dane.

Name.	Office.	Residence.	
		Post Office.	*County.*
Oscar F. Bartlett	Senator	East Troy	Walworth.
Samuel Cole	do	Gratiot	La Fayette.
Charles R. Gill	do	Watertown	Jefferson.
Lemuel W. Joiner	do	Wyoming	Iowa.
Noah H. Virgin	do	Platteville	Grant.
Ezra A. Foote	do	Footeville	Rock.
Alden I. Bennett	do	Beloit	Rock.
Benj. J. Sweet	do	Chilton	Calumet.
Elihu L. Phillips	do	Fond du Lac	Fond du Lac.
H. O. Crane	do	Neenah	Winnebago.
Benj. Ferguson	do	Fox Lake	Dodge.
E. Montgomery	do	Farmington	Jefferson.
John W. Stewart	do	Monroe	Green.
Gerry W. Hazleton	do	Columbus	Columbia.
John B. Sweat	do	Black Earth	Dane.
E. L. Browne	do	Waupacca	Waupacca.
Charles B. Cox	do	River Falls	Pierce.
Charles S. Kelsey	do	Montello	Marquette.
Buel E. Hutchinson	do	Pra're du Chien	Crawford.
Amasa Cobb, Speaker	Member of Assembly	Mineral Point	Iowa.
George Abert	do	Milwaukee	Milwaukee.
David Atwood	do	Madison	Dane.
Elihu Bailey	do	Mill Creek	Richland.
John Bear	do	Plain	Sauk.
Schuyler W. Benson	do	Bloomfield	Walworth.
Benjamin H. Bettis	do	Ladoga	Fond du Lac.
George W. Bly	do	Waupun	Dodge.
Jacob Bodden	do	Theresa	Dodge.
James H. Bonney	do	Belle Fountain	Columbia.
Simeon S. Bradford	do	Union Grove	Racine.
John Bredemeyer	do	Edwards	Sheboygan.
Erastus J. Buck	do	Westfield	Marquette.
James Campbell	do	Albany	Green.
Benjamin F. Cary	do	Johnstown	Rock.
Charles Caverno	do	Milwaukee	Milwaukee.
Willard H. Chandler	do	Windsor	Dane.
Samuel E. Chapman	do	Waterford	Racine.
John G. Clark	do	Lancaster	Grant.
Chester D. Combs	do	North Royalton	Waupacca.
John Comstock	do	Hudson	St. Croix.
Sterling M. Cone	do	Waterloo	Jefferson.
Daniel Cottrell	do	Oconomowoc	Waukesha.
William Dieves	do	Greenfield	Milwaukee.
Edward W. Dwight	do	Oregon	Dane.
Fred. S. Ellis	do	Green Bay	Brown.
Harvey W. Emery	do	Portage City	Columbia.
Almeron B. Everts	do	Appleton	Outagamie.
William S. Finley	do	Kewaunee	Kewaunee.
Alvin L. Flint	do	Princeton	Green Lake.
Jabez L. Fobes	do	Two Rivers	Manitowoc.
Michael Frank	do	Kenosha	Kenosha.
Leander F. Frisby	do	West Bend	Washington.
Orestes Garrison	do	Centralia	Wood.

NAME.	OFFICE.	RESIDENCE.	
		Post Office.	*County.*
John Gee,	Member of Assembly,	Sheboygan,	Sheboygan.
Alexander Graham,	do	Janesville,	Rock.
Myron Gilbert,	do	Prospect Hill,	Waukesha.
Le Roy Graves,	do	Gravesville,	Calumet.
Sereno W. Graves,	do	Rutland,	Dane.
John W. Hall,	do	Dotyville,	Fond du Lac.
Charles F. Hammond,	do	Ripon,	Fond du Lac.
Robert Haney,	do	Milwaukee,	Milwaukee.
John Hanrahan,	do	Good Hope,	Milwaukee.
Joseph Harris,	do	Hazel Green,	Grant.
Samuel Hayes,	do	Neosho,	Dodge.
Nathan Hazen,	do	Poynette,	Columbia.
Franklin Z. Hicks,	do	Avoca,	Iowa.
Daniel H. Johnson,	do	Pr'ie du Chien,	Crawford.
Calvin R. Johnson,	do	Bl'k Riv. Falls,	Jackson.
Edward Keogh,	do	Milwaukee,	Milwaukee.
James Kirkpatrick,	do	Brodhead,	Green.
Gilbert Knapp,	do	Racine,	Racine.
Frederick H. Kribs,	do	Beaver Dam,	Dodge.
Isaac Lain,	do	Waukesha,	Waukesha.
Otis B. Lapham	do	Friendship,	Adams.
Marcus Linsley,	do	Kenosha,	Kenosha.
Chester D. Long,	do	Darien,	Walworth.
Thomas C. L. Mackay,	do	Elk Grove,	La Fayette.
Henry L. Massey,	do	Potosi,	Grant.
Isaac E. Messmore,	do	La Crosse,	La Crosse.
David N. Minor,	do	Rubicon,	Dodge.
William F. Mitchell,	do	Gibbsville,	Sheboygan.
Orlando C. Munroe,	do	Racine,	Racine.
Selim Newton,	do	Fond du Lac,	Fond du Lac.
Stiles S. Northrop,	do	Ogden,	Rock.
Dominick O'Malley,	do	Westport,	Dane.
Wm. F. Opitz,	do	Mequon River,	Ozaukee.
Rodman Palmer,	do	Chippewa Falls	Chippewa.
Nathan Parker,	do	Hartford,	Washington.
Peter Peters,	do	Rubicon,	Dodge.
Jost D. Petrie,	do	Concord,	Jefferson.
Frederick A. Pfaff,	do	Cross Plains	Dane.
Armine Pickett,	do	Weelaunee,	Winnebago.
Anson W. Pope,	do	Janesville,	Rock.
Theodore Prentiss,	do	Watertown,	Jefferson.
Lloyd T. Pullen,	do	Argyle,	La Fayette.
Wm. H. Ramsey,	do	Ozaukee,	Ozaukee.
Curtis Reed,	do	Menasha,	Winnebago.
James Riordan,	do	Milwaukee,	Milwaukee.
Hanmer Robbins,	do	Platteville,	Grant.
John Rugee,	do	Milwaukee,	Milwaukee.
Philetus Sawyer,	do	Oshkosh,	Winnebago.
Valentine Schaetzel,	do	Menom'neeF'lls	Waukesha.
Francis Smith,	do	Millard,	Walworth.
Wyman Spooner,	do	Elkhorn,	Walworth.
Horace Stanton,	do	Fond du Lac,	Fond du Lac.
Joseph Stephenson,	do	Meme,	Manitowoc.
Marsena Temple,	do	Newport,	Sauk.

NAME.	OFFICE.	RESIDENCE.	
		Post Office.	*County.*
Wm. H. Thomas,	Member of Assembly,	Lisbon,	Waukesha.
Elijah C. Townsend,	do	Shullsburg,	La Fayette.
Jared Warner,	do	Patch Grove,	Grant.
Henry G. Webb,	do	Wautoma,	Waushara.
Obadiah J. White,	do	Monroe,	Green.
Horace B. Willard,	do	Lake Mills,	Jefferson.
John J. Williams,	do	Lowell,	Dodge.
Carl Winkler,	do	Milwaukee,	Milwaukee.
Henry A. Youmans,	do	Mukwonago,	Waukesha.
Butler G. Noble,	Lt. Gov. and Pres't Sen.	Whitewater,	Walworth.
Amasa Cobb	Speaker of Assembly,	Mineral Point,	Iowa.
J. H. Warren,	Chief Clerk of Senate,	Albany,	Green.
S. S. Barlow,	Ass't Clerk of Senate,	Baraboo,	Sauk.
L. H. D. Crane,	Chief Clerk of Assembly	Ripon,	Fond du Lac.
John S. Dean,	Ass't Clerk of Assembly	Arlington,	LaFayette.

NOTE.—Where a superfluous word has been found in the enrolled bill, it has been printed in the text, but in italics, and enclosed in parenthesis, (*thus.*)—Where a word has been found necessary to sustain the sense of the context, or where one word has been obviously mistaken for another, the word supposed to be proper has been supplied, but in brackets, [thus:] and in no case has the text of the enrolled bill been altered.

PRIVATE AND LOCAL LAWS

OF THE

STATE OF WISCONSIN.

CHAPTER 1.

AN ACT to authorize Edward Decker to build and maintain a dock and pier extending into Lake Michigan.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Edward Decker, his associates, successors, executors, heirs or assigns, are hereby authorized and empowered to build and maintain a dock and pier extending into Lake Michigan, from the end of Ellis street, in the village of Kewaunee, in the county of Kewaunee. Authority. Location.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved February 1, 1861.

CHAPTER 2.

AN ACT to authorize and empower David Youngs to keep and maintain a dock and pier extending into Lake Michigan.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. David Youngs, his associates, successors, executors, heirs or assigns, are hereby authorized and empowered to keep and maintain the dock and pier built by him, and extending into Lake Michigan, near the mouth of the Ahnepee river, in the village of Ahnepee, in Kewaunee county. Authority. Location.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved February 1, 1861.

CHAPTER 3.

CHAPTER 3.

AN ACT to incorporate the fire department of the city of Oshkosh.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Incorporation.

SECTION 1. That all persons who now are or hereafter may become members of the fire department of the city of Oshkosh, and their successors, shall be and are hereby ordained, constituted and declared to be, and to be continued, a body politic and corporate, in fact and in name, under the name and style of the "Fire department of the city of Oshkosh:" and by that name they and their successors may and shall have perpetual succession, and shall be capable in law and equity of suing and being sued, pleading and being impleaded, answering and being answered to, defending and being defended, in all suits, complaints, matters, causes, courts and pleas whatsoever, and may have a common seal, and may acquire by purchase, gift, devise or otherwise, and may hold and convey, any real, personal or mixed estate, necessary, proper or epedient [expedient] for the object of this incorporation: *provided*, that the amount of said estate shall not exceed the sum of fifty thousand dollars.

Style.

Powers.

Proviso.

Power of members.

SECTION 2. The members of the fire department of the city of Oshkosh hereby incorporated, shall have and are hereby declared to have full power and authority to make and prescribe such by-laws, rules, ordinances and regulations, and the same to alter, amend and change at pleasure, as to them from time to time shall seem needful or proper, touching the management and disposition of their funds for the objects aforesaid; touching the regular and special meetings of the department; the regulation, duty and conduct of their members, delegates and board of trustees; the election and displacing of officers and delegates; the admission and expulsion of members; the filling of vacancies in office, and touching every matter and thing necessary or expedient for the good government and promotion of this incorporation, or what pertains to the business and objects for which the said incorporation is by this act instituted: *provided*, that such by-laws, rules, ordinances and regulations be not repugnant to the constitution of the United States, or of this state, or to the

Proviso.

charter or any of the ordinances of the city of Oshkosh.

Officers.

SECTION 3. The officers of said department by this act incorporated, shall be a president, vice president, secretary and treasurer, who, together with the delegates from the several fire companies and other bodies, pursuant to the provisions of the constitution and by-laws of the department, shall constitute a board of trustees, a majority of whom shall be a quorum for the transaction of business; and said officers and delegates separately, as a body of trustees, shall do and perform such duties and things as may be incumbent upon or required of them by the constitution and by-laws of the department.

Annual meeting.

SECTION 4. There shall be an annual meeting of the members of said corporation on the third Monday of April in each year, at which the officers shall be elected by ballot, by a majority of members present, from their own body, and the officers elected shall hold their offices for one year, and until others be chosen in their place; but in case it shall at any time happen that an election of officers shall not be made or had on that day, the corporation shall not be dissolved, but it shall and may be lawful to hold such election thereafter, pursuant to public notice given in one or more of the newspapers printed in said city.

Failure to hold election not a loss of franchises

First board of trustees.

SECTION 5. Of the fire department of the city of Oshkosh, O. J. Clark shall be president; William Wagner, vice president; L. Schintz, secretary, and Charles Hall, treasurer; who, together with the delegates chosen as aforesaid, shall be chosen the first board of trustees, and shall hold their term of office as provided in the constitution and by-laws of the department.

Interest on funds of association.

SECTION 6. The interest arising from the funds of said corporation, except sufficient to defray incidental expenses, shall be appropriated to the relief of such indigent and disabled firemen and their families as may be interested in the fund, and may be, in the opinion of a majority of the trustees, worthy of assistance.

Firemen's certificates.

SECTION 7. All certificates now required to be obtained by firemen from the clerk of said city, pursuant to the provisions of any law of this state, shall hereafter be obtained from the department by this act incorporated, which certificate, signed by the president and treasurer of this department and countersigned by

CHAPTER 4.

the city clerk of said city, and under the seal of this incorporation, shall have the like effect of those heretofore obtained from the said city clerk, and shall be *prima facie* evidence of the facts therein contained; and each person applying for such certificate shall pay therefor such sum as the by-laws of the department shall prescribe, for the benefit of the corporation and the object thereof.

List of members to be annually furnished city clerk.

SECTION 8. It shall be the duty of the board of trustees to make out and deliver to the city clerk once in each year, or whenever he may request it, an accurate list of all members of this corporation who are exempt from jury or military duty, that are or may become entitled to the benefits thereof.

Repeal.

SECTION 9. All acts and any parts of acts which contravene the provisions of this act, are hereby repealed, and this act shall take effect from and after its passage.

Approved February 12, 1861.

CHAPTER 4.

AN ACT to authorize the Koshkonong bank to remove from Fort Atkinson to Jefferson, Jefferson county.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

May remove.

SECTION 1. The Koshkonong bank is hereby authorized to remove its place of business from Fort Atkinson, in the county of Jefferson, to the village of Jefferson, in the county of Jefferson, upon filing with the bank comptroller a certificate from the secretary of state that said bank has complied with the requirements of subdivision thirteen (13) of an act to amend chapter four hundred and seventy-nine (479) of the general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 15, 1858, and setting forth in said certificate the place to which said bank is to be removed: *provided*, that the holder or holders of any outstanding circulating notes of said bank may have such notes presented and the payment thereof demanded, and may cause such notes to be protested for non-

Proviso.

payment at Jefferson, in the same manner and with like effect as if the same had been so presented, demanded and protested at Fort Atkinson.

When new notes may be issued.

SECTION 2. It shall not be lawful for the bank comptroller to issue to the said bank any circulating notes until its plates shall be so altered as to read "Koshkonong bank of Jefferson," instead of "Koshkonong bank of Fort Atkinson," as they now read.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved February 12, 1861.

CHAPTER 5.

AN ACT for the relief of Garret Holfmann.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Patent may issue when claim is established.

SECTION 1. The governor is hereby authorized to receive testimony in the case of the claim of Garret Holfmann to the south-east quarter of the south-east quarter of section number eleven, in township number sixteen, north of range number eighteen, being a portion of the lands granted for the improvement of the Fox and Wisconsin rivers; and on the presentation of a duplicate receipt from the register of the state land office, and the establishment of the claim of the said Garret Holfmann to the aforesaid tract, the governor is hereby authorized to issue to the said Holfmann a patent for the said tract of land in the usual form.

SECTION 2. This act shall take effect from and after its passage.

Approved February 12, 1861.

CHAPTER 6.

AN ACT to reduce the capital stock of the Racine county bank.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Capital stock may be reduced.

SECTION 1. The Racine county bank at Racine is hereby authorized to reduce its capital stock to the sum of one hundred thousand dollars, the outstanding circulating notes of said bank being not greater than that sum, and said bank having filed a certificate with the secretary of state in compliance with subdivision thirteen (13) of an act to amend chapter 479 of the general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 15th, 1858: *provided*, that said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital up to and including the day on which this act shall take effect.

Certificate to be filed with register of deeds.

SECTION 2. The president and cashier of the bank named in section one of this act, shall immediately after its passage file in the office of register of deeds, in the county of Racine, a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved February 12, 1861.

CHAPTER 7.

AN ACT for the relief of the town of Forsyth.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Order on treasurer of city of Berlin, in favor of town of Forsyth.

SECTION 1. The board of education of the city of Berlin, are authorized to issue to the district treasurer of district No. (1) one of the town of Forsyth, an order on the treasurer of said city, for the amount due said school school district No. (1) one, from said city. Said amount of money is to be determined by making an equitable division of the amount of the school money

in the common treasury of said city at the time of the creation of the said town of Forsyth.

SECTION 2. This act shall be in force and take effect from and after its passage.

Approved February 12, 1861.

CHAPTER 8.

AN ACT to amend section 1 of chapter 285 of private and local laws of 1860, entitled "an act to grant a certain island in the Wisconsin river, in the county of Wood, to Orestes Garrison and H. W. Jackson," approved March 31st, 1860.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 1 of chapter 285 of private and local laws of 1860, entitled "an act to grant a certain island in the Wisconsin river, in the county of Wood, to Orestes Garrison and H. W. Jackson," approved March 31, 1860, is hereby amended by striking out the word "seven" wherever it occurs in said said section, and inserting the word "six" in lieu thereof. Amendment.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved February 12, 1861.

CHAPTER 9.

AN ACT to authorize the Clark county bank to reduce its capital.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Clark county bank is hereby authorized and permitted to reduce its capital stock to thirty-five thousand dollars, the outstanding circulating notes of said bank being less than that sum, and said bank having filed a certificate with the secretary of state in compliance with subdivision thirteen (13) of an act to amend chapter four hundred and seventy-nine of the Capital stock may be reduced.

CHAPTER 10.

general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 15th, 1858: *provided*, that the said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital up to and including the day of the passage of this act.

Proviso.

Certificate to be filed with bank comptroller.

SECTION 2. The president and cashier of the bank aforesaid shall, immediately after its passage, file in the office of the bank comptroller a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

SECTION 3. This act shall take effect from and after its passage.

Approved February 15, 1861.

CHAPTER 10.

AN ACT to amend an act entitled "an act to incorporate the Milwaukee orphan asylum," approved March 24, 1852.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

May have a common seal, and sell and convey real estate.

SECTION 1. The act entitled "an act to incorporate the Milwaukee orphan asylum," approved March 24, 1852, is hereby amended by adding to the sixth section the following: "The said corporation may have a common seal, and may, when directed by a vote of a majority of the board of trustees, sell and convey or mortgage real estate belonging to said corporation by deed or mortgage signed by its president and secretary, and sealed with its seal, and such deed or mortgage when duly acknowledged by the president and secretary, shall effectually pass the title or interest in the real estate belonging to the said corporation thereby conveyed."

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved February 16, 1861.

CHAPTER 11.

AN ACT to authorize the city of Milwaukee to construct and maintain a certain bridge.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority. SECTION 1. The city of Milwaukee is hereby authorized, in the discretion of the common council, to build and maintain a bridge across the Milwaukee river, from Location. Chicago street, in the third ward, on the east side of said river, to Menomonee street, in the fourth ward, on the west side of said river, or on any convenient point north of said Menomonee street, where a suitable landing place and street or right of way from the river to West Water street, shall be provided for that purpose; and to pay for the construction of such bridge, or the re-building of the same at any time thereafter, the common council may levy a tax on all taxable property in said city sufficient to raise the amount of money necessary for that purpose, which tax shall be levied and collected at the same time and in the same manner as other city taxes are levied and collected by law. When the common council shall determine to build such bridge, the plans and specifications for the same shall be made, and the work let by contract, in the same manner as other city work is required to be let by law. Such bridge, when built, shall be free, Bridge to be free. shall be constructed in such manner as the common council shall determine, and shall be under the control of the city, in the same manner as other bridges across the Milwaukee river in said city.

Tax may be levied.

Vacation of part of Menomonee street. SECTION 2. With the consent of the owners of the property on each side thereof, the common council of said city may, by resolution or ordinance, vacate such part of Menomonee street, in the fourth ward, from the Milwaukee river westward, as they shall think proper: *provided, only*, that a suitable street shall first be furnished and opened from said river to West Water street, north of Menomonee street, at or in which the west end of the bridge by this act authorized to be built, can conveniently abut or terminate; and authority is hereby expressly given to said city and the owner or owners of the property at or near the foot of Menomonee street, on the west side of said river, to con-

CHAPTER 12.

tract for the vacation of such part of said last named street as shall be thought necessary or convenient, and for the opening of such new street, as aforesaid, from said river to West Water street.

SECTION 3. This act shall take effect force from and after its passage.

Approved Feb'y 19, 1861.

CHAPTER 12.

AN ACT to authorize the "Northwestern bank" to reduce its capital.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

May reduce capital stock.

SECTION 1. The Northwestern bank is hereby authorized to reduce its capital stock to fifty thousand dollars, the outstanding circulating notes of said bank being not greater than that sum, and the shares of said bank to five hundred shares of one hundred dollars each; and said bank having filed a certificate with the secretary of state, in compliance with subdivision thirteen of an act to amend chapter 479 of the general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 15, 1858: *provided*, that the said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital up to and including the day on which this act shall take effect.

Proviso.

Certificate to be filed with register of deeds.

SECTION 2. The president and cashier of the bank named in section one of this act shall, immediately after it passage, file in the office of register of deeds, in the county where said bank is situated, a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved February 19, 1861.

CHAPTER 13.

AN ACT to authorize the Wisconsin bank, of Madison, to reduce its capital.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Wisconsin bank, of Madison, is hereby authorized to reduce its capital stock to twenty-five thousand dollars, the outstanding circulating notes of said bank being not greater than that sum, and said bank having filed a certificate with the secretary of state, in compliance with sub-division thirteen of an act to amend chapter 479 of the general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 18th, [15th] 1858: *provided*, that the said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital up to and including the day on which this act shall take effect. Capital may be reduced. Proviso.

SECTION 2. The president and cashier of the bank named in section one of this act shall, immediately after its passage, file in the office of the register of deeds in the county of Dane, a certificate under oath, stating the sum to which the capital stock of said bank is reduced. Certificate to be deposited with register of deeds.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved February 27, 1861.

CHAPTER 14.

AN ACT to authorize Isaac Taylor and Daniel Slauson to keep and maintain a dock and pier extending into Lake Michigan.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Isaac Taylor and Daniel Slauson, their associates, successors, executors, heirs and assigns, are hereby authorized and empowered to keep and Authority.

CHAPS. 15-16.

maintain a dock and pier, built by them, and extending into Lake Michigan, in the village of Kewaunee, in the county of Kewaunee.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 6, 1861.

CHAPTER 15.

AN ACT to authorize E. B. Dean and John Borland to keep and maintain a dock and pier extending into Lake Michigan.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority.

SECTION 1. E. B. Bean and John Borland, their associates, successors, executors, heirs or assigns, are hereby authorized and empowered to keep and maintain a dock and pier, built by them, and extending into Lake Michigan, in the town of Carlton, in Kewaunee county.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 6, 1861.

CHAPTER 16.

AN ACT to reduce the capital stock of the Southern bank to twenty-five thousand dollars.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Capital stock may be reduced.

SECTION 1. The Southern bank is hereby authorized to reduce its capital stock to twenty-five thousand dollars, the outstanding circulating notes of said bank being less than that sum, and said bank having filed a certificate with the secretary of state, in compliance with subdivision thirteen of an act to amend chapter four hundred and seventy-nine of the general laws of 1852, entitled "an act to authorize the business of

banking in the state of Wisconsin," approved May 15, 1858: *provided*, the said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital up to and including the day on which this act shall take effect.

Proviso.

SECTION 2. The president and cashier of said bank shall, immediately after the passage of this act, file in the office of the register of deeds in the county where said bank is situated, a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

Certificate to be filed with register of deeds.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 6, 1861.

CHAPTER 17.

AN ACT for the relief of Leopold Kottman.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Leopold Kottman shall have the exclusive right to pre-empt the N ½ of NW ¼ and the SW ¼ of NE ¼ of sec. (27) in township (17) north of range 7 west of the fourth principal meridian, in La Crosse county, Wisconsin, and may file his pre-emption claim to said land at any time hereafter, and prove up his claim to and pay for said lands after the same shall have been patented to the state of Wisconsin, and at any time ten days previous to offering the same at public sale.

Right of pre-emption to a certain piece of land

SECTION 2. In filing his pre-emption claim, proving up the same and paying for said lands, he shall conform to the provisions of chapter 29 of the revised statutes of Wisconsin now in force, so far as the same are applicable.

Must conform to statutes.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 7, 1861.

CHAP. 18-19.

CHAPTER 18.

AN ACT for the relief of the creditors of the estate therein named.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Extension of time to receive proof of claims against estate of James G. Besley.

SECTION 1. The judge of the probate or county court in and for the county of Milwaukee, is hereby required to take and receive the proof of claims and demands against the estate of James G. Besley, deceased, for the time and space of ninety days from and after the date of the passage of this act, notwithstanding the time limited therefor for the receipt and proof of such demands may have heretofore elapsed: *provided*, that notice of the time and place of hearing of such claims shall be given to all persons interested in said estate in such manner as said judge shall direct.

Notice to be given.

Auditing of claims.

SECTION 2. The judge of said court shall audit and allow such claims and demands as shall appear to be due and owing from such estate, the same as though they had been presented before the time therefor elapsed; and upon the hearing in relation to such claims against such estate, the person making the claim is hereby authorized to be sworn and examined as a witness in his own behalf touching the validity of such claim or demand.

Person making claim may be sworn in his own behalf.

SECTION 3. The judge of said court is hereby authorized to take and receive any other testimony which may be offered at the hearing of said case, either for or against said claimant or said estate.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved March 9, 1861.

CHAPTER 19.

AN ACT to reduce the capital stock of the Bank of Fond du Lac.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Circulation may be reduced.

SECTION 1. The Bank of Fond du Lac is hereby permitted to reduce its capital stock to the sum of

twenty-five thousand dollars, its outstanding circulating notes not being greater than that sum, and said bank having filed with the secretary of state a certificate in compliance with subdivision thirteen (13) of an act to amend chapter four hundred and seventy-nine (479) of the general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 15th, 1858: *provided*, that the said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital stock up to and including the day on which this act shall take effect.

Proviso.

SECTION 2. The president and cashier of the bank named in section one of this act shall, immediately after its passage, file in the office of the register of deeds in the county where such bank is situated, a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

Certificate to be filed with register of deeds.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 14, 1861.

CHAPTER 20.

AN ACT to authorize A. L. Flint, assignee of Davis H. Waite, to widen a certain canal and erect a dam.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. A. L. Flint, assignee of Davis H. Waite, his heirs or assigns, are hereby authorized and empowered to widen a certain canal, heretofore made and constructed by virtue of and in accordance with the provisions of chapter two hundred and seventy-four of the laws of eighteen hundred and fifty-two, entitled "an act to authorize Davis H. Waite and his associates to construct a canal:" *provided*, said canal shall not be enlarged so as to extend more than forty feet in width.

Authority to widen canal.

Width not to exceed forty feet.

SECTION 2. Said A. L. Flint, his heirs and assigns, are hereby authorized and empowered to erect and maintain a dam across the Makan river, below the

Authority to erect dam.

CHAPTER 21.

head of said canal on section 7, town 16, range 11 east: *provided*, that said dam shall not cause the overflow of any state land, nor work to the injury of any person or persons without compensation.

Not to overflow state land, &c.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 16, 1861.

CHAPTER 21.

AN ACT to amend the charter of the Milwaukee, Watertown and Baraboo Valley railroad company, and the several acts amendatory thereof.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Change of name.

SECTION 1. The corporate name of the "Milwaukee, Watertown and Baraboo Valley railroad company," is hereby changed to that of "the Milwaukee and Western railroad company," by which latter corporate name and style the said company shall be hereafter known for all purposes and in all courts and places.

Contracts &c. not affected.

SECTION 2. Such change of name shall in no wise affect any existing contracts or liability of said company; but the same may be enforced by or against said company, in or by such new corporate name and style.

Extension of time to extend road.

SECTION 3. Chapter seventy-five of the local laws of 1860, entitled "an act to amend the charter of the Milwaukee, Watertown and Baraboo Valley railroad company," approved March 31st, 1860, is hereby so amended as to extend the time for changing and re-locating said company's line of railroad between the city of Watertown and the village of Columbus, in the manner provided for in said chapter seventy-five. The work of making such change of line to be commenced within three years from the date of the passage of this act, and when commenced, to be prosecuted in the manner provided in said chapter seventy-five.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved March 16, 1861.

CHAPTER 22.

AN ACT to authorize the Bank of Wisconsin to reduce its capital.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Capital may be reduced.

SECTION 1. The Bank of Wisconsin is hereby authorized to reduce its capital stock to the sum of thirty thousand dollars, the outstanding circulating notes of said bank not being greater than that sum, and said bank having filed with the secretary of state a certificate in compliance with subdivision thirteen (13) of an act to amend chapter four hundred and seventy-nine (479) of the general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 15th, 1858: *provided*, that said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of the capital stock up to and including the day on which this act shall take effect.

Proviso.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 18, 1861.

CHAPTER 23.

AN ACT to repeal chapter 90 of the local laws of 1853, entitled "an act to authorize the county of Columbia to aid in the construction of certain railroads;" also to repeal chapter 293 of the local laws of 1853, entitled "an act to authorize certain towns to aid in the construction of the Milwaukee and Watertown railroad."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Chap. 90, L. L. 1853, repealed.

SECTION 1. Chapter ninety of the local laws of 1853, entitled "an act to authorize the county of Columbia to aid in the construction of certain railroads," approved March 19, 1853, is hereby repealed.

Chap. 293, L. L. 1853, repealed.

SECTION 2. Chapter 293 of the local laws of 1853, entitled "an act to authorize certain towns to aid in the construction of the Milwaukee and Watertown railroad," April 2, 1853, is hereby repealed.

CHAPTER 24.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 18, 1861.

CHAPTER 24.

AN ACT to incorporate the Northwestern watch manufacturing company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. Edward G. Elliott, Henry F. Spooner, Peter Golden, William H. Pettit, John F. Brett, Myron E. Dening, Squire Stanford, Henry Aakins, Hollis Latham and Edward P. Eaton, and all others who shall hereafter become associated with them, by subscribing to the capital stock in the corporation hereby created, and their successors and assigns, shall be and are hereby constituted and made a body corporate, by

Style and corporate powers.

the name and style of the "Northwestern watch manufacturing company," and by that name shall be capable in law and equity of sueing and being sued, pleading and being impleaded, answering and being answered unto, and defending and being defended against, in all courts and places whatsoever, in all manner of actions and causes, and may have a common seal, which they may alter and renew at pleasure. Said corporation to be located and have its place of business at the village of Elkhorn, Walworth county.

Capital stock, shares, opening of books of subscription, and election of directors.

SECTION 2. The capital stock of said corporation shall be one hundred thousand dollars, and shall be divided into shares of fifty dollars each, and the persons named in the first section of this act, or a majority of them, may, at such times and places, and on such notice as they may decide, open books of subscription to the capital stock of said corporation; and as soon as five hundred shares of such stock are subscribed and five dollars on each share have been paid in, they shall call a meeting of the stockholders for the election of directors of said company, and organize the corporation.

Stock deemed person'l prop'rty

SECTION 3. The capital stock and shares of said corporation shall be deemed personal property, and

shall be transferable in such manner as shall be prescribed by the by-laws, or the directors of said corporation.

General powers of corporation.

SECTION 4. The said corporation shall have power to manufacture Elliott's patent improved watches and clocks, and all and every variety of watches, clocks and instruments for the measuring of time, and to sell and dispose of the same at pleasure; and may construct such buildings and machinery as may be required in the business operations of said company, on any lands which may be owned or leased by said corporation.

Board of directors—how elected.

SECTION 5. The property and affairs of said corporation shall be managed and conducted by a board of directors, which board shall consist of not less than three nor more than seven persons, as a majority of the stockholders may from time to time determine and prescribe; and said board shall be elected annually by the stockholders of said corporation, after the same shall be organized, at such time and place and under such regulations as shall be prescribed by the by-laws of the corporation or adopted by resolution of the board of directors; and at such elections each stockholder shall be entitled to one vote for each share of stock held by him in said corporation, and may give such vote in person or by proxy duly authorized: *provided*, that no person shall be elected a director, or competent to act as such, who shall not at the time be a stockholder in said corporation.

Proviso.

Quorum.

SECTION 6. A majority of the board of directors, elected in pursuance of section five of this act, shall constitute a quorum for the transaction of business, and the persons constituting such board shall hold their office for the term of one year, and until their successors shall be elected; and the said board of directors shall at all times have power to fill vacancies in their body, and may also prescribe the mode and manner of calling meetings of the stockholders for the election of directors, and conducting the same; and the said board of directors shall have power to prescribe and decide the kind and number of officers and agents to carry on and manage the affairs and business of the corporation generally, and to designate the powers and duties of such officers and agents, and to appoint the same, or to prescribe the manner in which the same shall be elected: *provided*, that the

Term of office of board.

Powers of board.

CHAPTER 25.

powers and duties by this act conferred and imposed upon the said board of directors, shall be limited and controlled in their exercise by such by-laws, rules and regulations as may from time to time be made and ordained by such corporation, under the provisions of this act.

Further powers of corporation.

SECTION 7. The said corporation shall have power to purchase, hold and convey such real estate as may be required to carry out the purpose and object of the corporation; and also shall have power to borrow money, contract debts, issue bonds, give notes, and to pledge or mortgage the real and personal property of the corporation for and in the prosecution and transaction of the business of said corporation.

Ibid.

SECTION 8. Such corporation shall have power to make, establish, alter and amend such by-laws, rules and regulations for the management, control and disposition of the stock, property and business of said corporation, not inconsistent with the constitution and laws of the state of Wisconsin and of the United States, as may be deemed expedient at any stated annual meeting: *provided*, that a majority of all the stockholders present at any stated, annual or special meeting, either in person or by proxy, who shall be the holders of more than one-half the number of shares subscribed to the capital stock of such corporation, shall be a quorum competent to transact business; and at all such meetings each stockholder shall, on all questions, be entitled to one vote for each share of stock held by him in such corporation.

Proviso.

Approved March 19, 1861.

CHAPTER 25.

AN ACT to vacate a certain highway.

Highway vacat'd

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. A highway commencing at a point where the highway running north from the south Milwaukee road (through lands belonging to Charles Alexander, Jacob H. Kimball and Sabrina Barney) intersects

the highway running easterly from near the Catholic church in the village of Waukesha by the residence of Sabrina Barney, and running thence north through land owned by C. H. Miner, is hereby vacated.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 21, 1861.

CHAPTER 26.

AN ACT to amend an act entitled "an act to incorporate the Peshtigo lumbering and manufacturing company," approved October 11th, 1856, and the amendments thereto.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Extension of rights, franchises, &c.

SECTION 1. All the rights, franchises, privileges and immunities granted to and conferred upon the Peshtigo company, by an act entitled "an act to incorporate the Peshtigo lumbering and manufacturing company," approved October 11th, 1856, and the amendments thereto, are hereby declared to extend to the northern and eastern limits of said Oconto county, and to the line of the state of Michigan, including the Menomonee river and the mouth thereof; and the said Peshtigo company shall have and enjoy the same rights, franchises, privileges and immunities in reference to said Menomonee river, as are now legally conferred upon it in reference to the said Peshtigo river, and as if the words "Menomonee river" had been orginally used in said act of incorporation, and in the amendments thereto, wherever the words "Peshtigo river" are used in said act and amendments thereto, meaning and intending hereby to grant and confer the same rights in reference to the one river as the other, to the extent of the limits and jurisdiction of the state of Wisconsin, and with the right, power and authority in said Peshtigo company to accept or contract for, or consolidate with any grant, company, chartered privilege or corporation heretofore or that may be hereafter granted by the state of Michigan to said Peshtigo company, or to others in reference to the improvement and uses of the said Menomonee river or

CHAPTER 26.

the mouth thereof, or in reference to dams or locks, basins or harbors, mills or manufactories upon said Menomonee river, or to other improvements of the navigation or uses thereof.

May build railroad, &c.

SECTION 2. The said Peshtigo company are hereby authorized and empowered to build, construct and operate a railroad to be called "the Peshtigo railroad," with single or double track, from their mills in the village of Peshtigo to or near Green Bay, at or near the mouth of the Peshtigo river, or at or near the mouth of Menomonee river, or both, and also to or near the Oconto river, and may charge and collect tolls, fares and freight from all persons or parties using or availing of the same; and where the right of way or depot grounds of said road or roads shall not be upon lands of said company, or lands which they may purchase, or lands of the state of Wisconsin, the said company shall have the same rights and power to condemn and take any lands needed by them for such right of way or depot grounds, as are now conferred upon said company for condemning and appropriating lands necessary for the construction of a harbor at the mouth of the Peshtigo river, or for the improvement of the channel of said river and its tributaries. Where such right of way or depot grounds shall be upon lands of this state, the said Peshtigo company shall have the right to acquire the title to the same in the manner now provided by law for railroad corporations.

May lease or sell said road.

SECTION 3. The said Peshtigo company may lease, sell and convey or otherwise dispose of their said road or any part or portion thereof, at any time hereafter, on such terms, conditions and provisions as they shall think proper.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1861.

CHAPTER 27.

AN ACT to legalize a certain highway in Columbia county.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Highway between the towns of Arlington and Leeds.

SECTION 1. The acts of the supervisors in laying out the highway between the towns of Arlington and Leeds, in the county of Columbia, described as follows, to wit: "Commencing at the northwest corner of section No. six, in town ten, range ten, thence south on said town line to the southwest corner of section No. eighteen, in said town of Leeds," are hereby legalized and declared to be valid, and the said highway is hereby declared to be a legal highway.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 21, 1861.

CHAPTER 28.

AN ACT to amend an act entitled "an act to incorporate Racine college," approved March 3rd, 1852.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Repealed.

SECTION 1. That section three (3) and four (4) of the act of which this is amendatory, are hereby repealed, and the following sections are substituted in their place, to wit: "Section 3. The board of trustees shall have full power to prescribe the course of instruction and discipline to be pursued in the said college and its departments; to appoint, and at pleasure remove such officers, professors, teachers and agents as they may see fit, and prescribe their duties, and generally direct, manage and control the business and affairs of the said corporation in such manner as they may be of opinion will best promote its objects; also, shall fill all vacancies that may occur in their own board by resignation, death or neglect for more than one (1) year to attend to the duties of the trustees; but any person who may be so elected trustee, must, at the time of his elec-

Powers of board of trustees.

Must be members of the P. E. Church.

CHAPTER 29.

tion, be a member in communion of the Protestant Episcopal church. Said board of trustees shall hold their next annual meeting May 27th, 1861, and afterwards they shall meet on their own adjournments; but in case of emergency the president, with the concurrence of two trustees, may call a special meeting, or any five members may call such meeting by giving notice to the members of the board, at least ten days before the time of such meeting.

Ex-officio trustees.

"Section 4. The three following named persons shall be *ex officio* trustees of the said corporation: the bishop of the Protestant Episcopal church within whose territorial limits the said institution may be located, the president of Nashotah house, and the rector or head of the faculty of the institution hereby incorporated. Including the said *ex officio* trustees, there shall be not less than twelve (12) nor more than twenty-five (25) trustees of said corporation. Seven (7) members of the board, regularly convened, shall form a quorum."

SECTION 2. Section seven (7) of the act of which this is amendatory, is hereby repealed.

Approved March 21, 1861.

CHAPTER 29.

AN ACT to authorize the Commercial bank to reduce its capital and remove its place of business.

The People of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

May reduce capital stock, and remove.

SECTION 1. The Commercial bank at Racine is hereby authorized to reduce its capital stock to the sum of twenty-five thousand dollars, the outstanding circulation of said bank being not greater than that sum, and to remove its place of business to the village of Lancaster, Grant county, in the state of Wisconsin:

Proviso.

provided, that said bank shall be required to pay to the state treasurer all taxes due the state up to and including the day on which this act shall take effect, on the full amount of its present capital stock.

Certificate to be filed.

SECTION 2. Before the removal of said bank, as provided in the foregoing section of this act, a certified

copy of the certificate recorded in the office of register of deeds of Racine county, in pursuance of section sixteen of "an act to authorize the business of banking in the state of Wisconsin," approved April 19th, 1852, shall be filed in the office of register of deeds in the county to which said bank shall remove, as hereinafter provided, and a copy thereof, duly certified by the register of deeds of said county, shall be filed with the bank comptroller and state treasurer.

When new notes may be issued.

SECTION 3. Hereafter the bank comptroller shall not issue to said bank, after it shall file its certificate to remove its place of business, as hereinafter [hereinbefore] provided and authorized, any circulating notes, unless the same shall distinctly mention Lancaster as the place of their issue and redemption.

Where notes payable, &c.

SECTION 4. The holder or holders of any outstanding circulating notes of said bank may have such notes presented for payment, and the payment thereof demanded, and may cause such notes to be protested for non-payment at the place to which said bank shall remove, as herein authorized, in the same manner and with like effect as if the same had been presented, demanded and protested at the place where said note or notes are made payable.

Certificate to be filed with register of deeds.

SECTION 5. The president of said bank shall, after the passage of this act, file in the office of register of deeds in the county to which it shall remove its place of business, in pursuance of this act, a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

SECTION 6. This act shall take effect and be in force from and after its passage.

Approved March 22, 1861.

CHAPTER 30.

AN ACT to authorize J. R. Slauson and C. H. Cunningham to keep and maintain a boom on the Kewaunee river.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. J. R. Slauson and C. H. Cunningham, their associates, successors and assigns, are hereby author-

CHAPTER 31.

Authority.

ized and empowered to keep and maintain a boom on the Kewaunee river, in the county of Kewaunee, commencing at or near the steam saw mills on section 17, town 23, north of range 25 east, and terminating at a point two miles from the commencement of the channel of said river: *provided*, that said boom shall be so constructed as not to obstruct the passage of boats, rafts or timber down or through said river; *and provided*, that before the parties aforesaid shall keep and maintain said boom, they shall first obtain the written consent of all owners of lands along the line of said boom, to so keep and maintain the same.

Not to obstruct passage of boats.

Consent of owners first to be obtained.

Injury to boom, &c.

SECTION 2. Any person or persons who shall willfully break or destroy said boom in whole or in part, or loose it from its moorings, shall be responsible to the proprietors thereof in an action of trespass for the amount of damages done, in addition to the penalty already provided by law, to be recovered before any court of competent jurisdiction.

SECTION 3. This act shall take effect from and after its passage.

Approved March 25, 1861.

CHAPTER 31.

AN ACT to amend chapter 16 of the private and local laws of 1855, entitled "an act to incorporate the Wisconsin female college," approved January 29th, 1855.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Board may issue capital stock to amount of $50,000.

SECTION 1. Section one of chapter sixteen of the private and local laws of 1855, entitled "an act to incorporate the Wisconsin female college," is hereby amended by adding thereto the following: "And the said trustees are hereby authorized, in their discretion, to issue capital stock in said corporation in shares of one hundred dollars each, not exceeding fifty thousand dollars, which shall be disposed of according to such rules and regulations as the board of trustees may ordain and determine."

Vacancies in board—how filled.

SECTION 2. Whenever the said trustees shall have issued capital stock in pursuance of the preceding sec-

tion, if any vacancies shall occur in the board of trustees by resignation, removal, expiration of office, neglect of official duty for one year consecutively, or any other cause, successors shall be elected by the stockholders, each stockholder being entitled to give as many votes as he owns shares of stock, subject to such rules as to time and method of election as the board of trustees may from time to time adopt.

Approved March 25, 1861.

CHAPTER 32.

AN ACT to incorporate the American leather company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. William E. Smith, George Jess, John W. Davis, Charles L. Robinson and Thomas G. Eggleston, and such other persons as may hereafter be associated with them as stockholders, their successors and assigns, are hereby created a body politic and corporate, by the name of the American leather company, with perpetual succession, and by that name shall have all the privileges, franchises and immunities incident to a corporation; may have a corporate seal and alter the same at pleasure, and by the same name shall be capable of purchasing, holding and conveying any estate, real and personal, for the use and benefit of said corporation.

Name and corporate powers.

Business of corporation, &c.

SECTION 2. The corporation hereby created shall have full right to carry on the business of tanning and manufacturing leather, and to that end may purchase or lease grounds, buildings or tenements, and all kinds of machinery and materials. It shall also have the right to purchase any patent of inventions useful in the prosecution of the business for which it is created, and and may hold, use and sell or convey the same in exchange for any property, real or personal, which property thus obtained may be held for the benefit and use of the corporation, or be sold and conveyed as its by-laws shall direct.

CHAPTER 33.

Capital stock.

SECTION 3. The capital stock of the said corporation shall be five thousand dollars, with the power to increase the same from time to time as the directors may deem necessary.

Directors—first board.

SECTION 4. The property and concerns of the said corporation shall be managed and conducted by a board of five directors. Wm. E. Smith, George Jess, John W. Davis, Charles L. Robinson and Thomas G. Eggleston, shall be the first directors of the said corporation, and shall hold office until others are chosen. The directors of the said corporation shall have power to adopt such by-laws and regulations respecting the management of the property, concerns, business and stock of the said corporation as they may deem expedient and proper, and to prescribe the time and manner of opening and closing the books of subscription to the capital stock, the time and proportion in which the subscribers to the said stock shall make payment therefor, and the time, place and manner of holding elections.

Powers of board.

SECTION 5. This act shall take effect and be in force from and after its passage.

Approved March 25, 1861.

CHAPTER 33.

AN ACT to authorize Burrage B. Downs to construct and maintain a boom across the Red Cedar river, in the county of Dunn.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority.

SECTION 1. Burrage B. Downs, his executors, heirs and assigns, are hereby authorized and empowered to construct and maintain a boom in and upon the Red Cedar river, on or in front of lots two, three, five, seven and eight, (2, 3, 5, 7, 8,) of section number thirty-four, (34,) in township number twenty-seven, (27,) range thirteen, (13,) west of the fourth principal meridian, in the county of Dunn.

Not to obstruct passage of logs, &c.

SECTION 2. The said boom shall be so constructed as to admit the free passage of logs and lumber: *provided*, that the proprietors of said boom shall not

retain the logs of other persons longer than a reasonable time to sort out their own logs from the "drive."

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 25, 1861.

CHAPTER 34.

AN ACT to amend chap. [chapter] 279 of the session laws of 1857, entitled "an act to incorporate the Oshkosh and Wausau railroad company."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

May change its present route.

SECTION 1. The Oshkosh and Wausau railroad company is hereby authorized and empowered to change its present line and route from the city of Oshkosh, in the county of Winnebago, to Wausau, in the county of Marathon, *via* Fremont, in the county of Waupacca; and in lieu of its present line and route between said points, may adopt a line extending from such eligible point in or near the village of Neenah, in the county of Winnebago, as the directors of said company shall determine, to any point on the Wisconsin river, *via* the village of Waupacca, in the county of Waupacca.

Release from liability of certain stockholders.

SECTION 2. The change by said railroad company of the route and line of said railroad, as provided for in section one of this act, shall be deemed and considered an agreement on the part of said company to release and discharge from all liability on their subscription to the capital stock of said company, all the stockholders who now reside in or who, at the time of taking such stock, did reside in the city of Oshkosh, or in the town of Oshkosh, or in the town of Algoma, in the county of Winnebago; and all such stockholders and subscribers who shall apply in writing for such discharge at any time after the change of said line and route, to the president or secretary or any one of the directors of said railroad company, shall be released and discharged from all such liability; and upon such application and change of line and route as aforesaid, the president and directors of said company are hereby

CHAPTER 35. authorized and directed to cancel and discharge such subscription on the books of said company.

SECTION. 3 This act shall take effect and be in force from and after its passage and publication.

Approved March 25, 1861.

CHAPTER 35.

AN ACT to authorize the Chicago and Northwestern railway company to make running arrangements, or to lease, buy or consolidate with the Fort Howard and Appleton, Green Bay and Madison and other railroad companies.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority. SECTION 1. The Chicago and Northwestern railway company is authorized to enter into arrangements for running on joint account, with such divisions of earnings as may be agreed upon, with the Fort Howard and Appleton, and the Green Bay and Madison railroad companies, and other companies whose railroads connect with or intersect its railroad, at any point on the line of said road north of the line of the Milwaukee and Minnesota, or La Crosse and Milwaukee railroad company, and to lease or purchase such railroads, or consolidate with the companies owning the same; and all the said companies are hereby empowered to enter into all agreements and to do all acts and things necessary or proper for the purposes aforesaid. And all the provisions of the laws of this state conferring powers upon railroad companies for the aforesaid purposes, or any of them, shall operate to confer the same powers upon the said Chicago and Northwestern railway company and the said other companies.

Operation of laws.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 26, 1861.

CHAPTER 36.

AN ACT to authorize John H. Knapp and others to keep and maintain a dam across Red Cedar river, in the county of Dunn.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority. SECTION 1. John H. Knapp, Henry L. Stout, Andrew Taintor and Thomas B. Wilson, their executors, heirs and assigns, are hereby authorized and empowered to build and maintain a dam across Red Cedar river, Location. in the county of Dunn, on lots numbered two and three (2 and 3) of section twenty-six, (26,) in township twenty-eight, (28,) of range thirteen, west of the fourth (4) principal meridian, to erect mills or other machinery, or in any other manner to make use of the water for hydraulic purposes: *provided*, that said dam shall not be raised so high as to overflow any lands owned Not to overflow, &c. by any other person or persons on said river.

How constructed SECTION 2. The owners of said dam shall construct a sufficient slide or chute, at least twenty feet wide, in said dam, in such manner as to allow the free and safe passage of rafts and boats descending said river, and to permit fish to ascend the same.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 26, 1861.

CHAPTER 37.

AN ACT to authorize Andrew Sheppard and John Valentine, their successors and assignees, to construct, keep and maintain a sheer-boom on Black river.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority. SECTION 1. Andrew Sheppard and John Valentine, their successors and assignees, are hereby authorized to construct, keep and maintain a sheer-boom on Black river, the upper end of which boom is to be fastened to a pier on an island in said river, opposite lot No. one (1) of section No. twenty-eight, (28) in township Location.

CHAPTER 38.

No. twenty-one, (21) of range four, (4) west of the fourth principal meridian, thence quarterly down Black river, and the lower end to be fastened to a pier in said river, opposite lot No. four (4) of the aforesaid section, township and range, the same being owned by the said Sheppard and Valentine.

How constructed

SECTION 2. The said sheer-boom shall not be so constructed and placed on or in said Black river as to obstruct the navigation of the same for boats, rafts, timber or lumber; and at all times, when the said river is in what is called a "running stage" for logs, the said Sheppard and Valentine, their successors and assignees, shall be prepared, at the head of their said boom so to be constructed and placed in said river, to turn into the main channel of the same, all logs not bearing the "mark" of the said Andrew Sheppard and John Valentine, their successors and assignees.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 28, 1861.

CHAPTER 38.

AN ACT to provide for the distribution of the funds belonging to the fire department of the city of Milwaukee.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Funds to be distributed among fire, hook and ladder and hose companies.

SECTION 1. All the funds belonging to the fire department of the city of Milwaukee shall be divided and distributed to and among the eight engine companies, numbered respectfully from No. 1 to No. 8; the two hook and ladder companies, numbered respectively Nos. 1 and 2; and the two hose companies, numbered respectively Nos. 1 and 2, now organized and existing in the city of Milwaukee, and belonging to or connected with the said fire department, in the manner hereinafter prescribed.

Commissioners.

SECTION 2. For the purpose of making a division and distribution of the funds of the said fire department of the city of Milwaukee, J. Albert Helfenstein, Christian Preusser, Andrew J. Langworthy, are hereby ap-

pointed commissioners. The board of trustees of the fire department of the city of Milwaukee may, immediately after the said commissioners shall have qualified as required by this act, and after the trustees of the said fire department shall have given their assent to this act, in the manner hereinafter provided, deliver and pay over to such commissioners all moneys in their hands, and assign, transfer, convey and deliver over to the said commissioners all notes, bonds, mortgages and other securities for money and other property which shall then belong to the said fire department; such assignments, transfers and conveyances to be made by the president, secretary and treasurer of such board of trustees, or either of them, as the board may by resolution direct, under the corporate seal of the said fire department; and when made, shall vest the legal title to all such money, notes, bonds, mortgages and other securities and property in the commissioners in this act named, and their legal successors, for the purposes in this act mentioned, and to be by them divided, distributed and disposed of as herein provided; and the said commissioners shall have full power to collect, or sell, or otherwise dispose of any notes, bonds, mortgages, or other evidences of debt, or property belonging to said fire department, which may come to their hands, and convert the same into cash; and for that purpose, whenever it shall be necessary to bring suit on any such securities to collect the same, may prosecute such suit in their own names, as commissioners, and shall have full power and authority to acknowledge satisfaction of any such bonds, notes and mortgages, and give acquittances and discharge thereof as fully and completely as the said fire department could itself do: *provided*, that the said commissioners nor their successors shall sell or assign any bond, note or mortgage for a less sum than the amount which may be secured thereby, with the interest accrued thereon, at the date of the sale thereof.

Delivery of moneys, &c., and assignment of notes, &c.

Powers of commissioners.

Proviso.

SECTION 3. The said commissioners shall from time to time, and as often as they shall have in their hands belonging to said fund, moneys to the amount of twelve hundred dollars, over and above what the commissioners may deem it reasonable to defray the expenses of collections, and to pay such commissioners such compensation for their own services as may be fixed in the

Distribution of fund.

CHAPTER 38.

manner herein provided, divide and distribute the same to and among the several engine, hook and ladder, and hose companies enumerated in the first section of this act, equally share and share alike, and pay over the amount so distributed to each of said companies to the foreman and treasurer thereof, and the receipt of the foreman and treasurer of each of said companies shall be a sufficient voucher for such commissioners for the payment thereof; and the commissioners shall from time to time continue to make such division and distribution, until the whole of such fund which shall come to their hands, except what may be required to pay such commissioners for their services, and to pay the necessary expenses of preserving and collecting such securities and property and making distribution thereof, shall be divided as aforesaid.

Commissioners to execute bond.

SECTION 4. The said commissioners shall, before they enter upon their duties, and within sixty days after this act shall be assented to by the board of trustees of the said fire department, as herein provided, execute and deliver to the fire department of the city of Milwaukee a joint and several bond, in such penalty and with such sureties as shall be approved by the board of trustees of the fire department of the city of Milwaukee, conditioned that the said commissioners will well and faithfully discharge the duties imposed upon them by the provisions of this act, and will honestly and faithfully account for and pay over all moneys, securities and other property belonging to the said fire department which may come to their hands, as required by the provisions of this act.

Acceptance.

SECTION 5. The board of trustees of the fire department of the city of Milwaukee may, within thirty days after the passage of this act, declare their acceptance of and assent to this act, by resolution to be adopted at a regular or special meeting of the said board, and in that event shall make out and certify, under the corporate seal of the fire department of the city of Milwaukee, two copies of such resolution, one of which shall be filed in the office of the secretary of state, and the other shall be filed and recorded in the office of the register of deeds of Milwaukee county.

Account of commissioners, and cancellation of their bond.

SECTION 6. Whenever the said commissioners shall have performed the duties imposed upon them by this act, they may render an account of their transactions

to the board of trustees of the said fire department, and if such board shall be satisfied that the commissioners have faithfully performed their duties, and disposed of, distributed, and paid over all moneys which shall have come to their hands, as herein required, it shall be the duty of said board to approve such account, and deliver up the bond of such commissioners, to be canceled, and thereupon all liability of such commissioners or their sureties on such bond shall cease. In case the said board of trustees shall not approve such account and surrender such bond within twenty days after such account shall be submitted to them, the commissioners may present a copy of their account, together with a petition to have their bond delivered up and canceled, to the judge of the second judicial circuit, either in term or vacation, giving eight days' previous notice of their intention to do so to the president of the said board, and thereupon the said judge may examine such account, and the vouchers and proofs which may be offered by either party relevant thereto, and if satisfied that such account is just and fair, may make an order confirming said account, and directing the bond of said commissioners to be delivered up and canceled, which order may be entered in the minutes of the circuit court of Milwaukee county; and upon the making of such order, the liability of the said commissioners and their sureties on such bond, shall cease and determine.

Compensation of commissioners.

SECTION 7. The said commissioners and the board of trustees of the said fire department of the city of Milwaukee, may agree upon the amount of compensation which such commissioners shall receive for their services under this act, and if they fail to agree, the amount of such compensation may be fixed by the circuit court of Milwaukee county, or the judge thereof, in term or in vacation.

Vacancies.

SECTION 8. In case of the death of either of the said commissioners, or if either of them shall decline to serve, the board of trustees of the said fire department may appoint a commissioner to fill such vacancy, and the commissioner so appointed shall give the like security for the faithful performance of his duties, to be approved in like manner, and thereupon he shall be clothed with the same power and subject to the same duties as the other commissioners.

Repeal.

SECTION 9. Section six of an act entitled "an act

CHAPS 39-40.

to incorporate the fire department of the city of Milwaukee," approved January 30, 1851, is hereby repealed.

SECTION 10. This act shall take effect and be in force from and after its passage.

Approved March 28, 1861.

CHAPTER 39.

AN ACT to regulate and limit the issuing of orders by the common council of the city of Hudson.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amount limited to $200 annually.

SECTION 1. The common council of the city of Hudson, after this act shall take effect, shall have power to audit and allow accounts for expenses incurred by said city for support and care of paupers, and salary of the city clerk, city attorney, the city printer, the assessors, and for inspectors and clerks of elections, and the legal fees of street commissioners, and an amount not exceeding two hundred dollars in any one year, for repairs on streets; and so long as there is not enough funds in the treasury applicable to and sufficient for the payment of all outstanding orders, no debt shall be contracted or claim audited against the city, unless founded on a liability heretofore incurred, except for the purposes above mentioned.

SECTION 2. This act shall take effect and be [in] force from and after the first day of May next.

Approved March 28, 1861.

CHAPTER 40.

AN ACT to provide for a ferry across the Menomonee river, and to repeal chapter 23 of the private and local laws of 1857, entitled "an act to establish and maintain a ferry across the Menomonee river, in Oconto county."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Exclusive right.

SECTION 1. Andrew McIvers and his associates, assigns, heirs and personal representatives, shall have

the exclusive right and privilege for the period of ten (10) years, of keeping and maintaining a ferry across the Menomonee river, in the county of Oconto, at or within two miles of the mouth of said river.

Fees.

SECTION 2. Such ferry shall be subject to such regulations as other ferries are by law subject, and the proprietor thereof shall be entitled to receive for crossing any vehicle or conveyance drawn by one horse or other animal, twenty-cents (25) cents; for each additional horse or ox, fifteen (15) cents; for man and horse, twenty-five (25) cents; for cattle or horses in droves, or without vehicles or conveyances, ten (10) cents per head; for hogs and sheep in droves, five (5) cents per head; for foot passengers, ten (10) cents each.

Prohibition.

SECTION 3. No other ferry shall be licensed or established on said Menomonee river within two miles of the mouth of said stream.

Repeal.

SECTION 4. Chapter 23 of the private and local laws of 1857, entitled "an act to establish and maintain a ferry across the Menomonee river, in Oconto county," is hereby repealed.

SECTION 5. This act shall take effect and be in force from and after its passage.

Approved March 27, 1861.

CHAPTER 41.

AN ACT to amend chapter 142 of the private and local laws of 1859, entitled "an act to amend chapter 364 of the private and local laws of 1856," entitled an act to authorize T. B. Scott and others to build a bridge across the Wisconsin.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendment.

SECTION 1. Section one of chapter 142 of the private and local laws of 1859, entitled "an act to amend chapter 364 of the private and local laws of of 1856," entitled "an act to authorize T. B. Scott and others to build a bridge across the Wisconsin," is hereby amended, so as to read as follows: "Section 1. Joseph Wood, Henry W. Jackson, 1st, George Weller,

CHAPTER 41.

John Rablin and Jesse H. Lang, or so many of them as shall accept the franchises hereby granted, and their associates and assigns, are hereby created a body corporate and politic, by the name of the Grand Rapids bridge company, with perpetual succession, and by that name may contract and be contracted with, sue and be sued, answer and be answered unto, in all courts of this state; may have a common seal, and may change the same at pleasure, and may enjoy all the rights and privileges incident to corporations, for the purpose of building a toll bridge across the Wisconsin river at Grand Rapids, and of maintaining the same, which bridge shall be constructed from the east side of said river at the foot of Drake street, in the village of Grand Rapids, to such convenient point on the west side of said river as said company may select."

Capital stock.

SECTION 2. The capital stock of said company shall not exceed twenty thousand dollars, and said corporation, or a majority of them, are hereby appointed commissioners to receive subscriptions to the capital stock of said company, and shall open books for subscription at such times and places as they shall direct, until the same or such an amount thereof as they may deem necessary to secure the completion of said bridge shall be all taken, which stock shall be payable as follows: Five dollars per share at the time of subscribing the same, and the balance in such installments as may, with the consent of said commissioners, be specified in the contract of subscription.

Election of directors.

SECTION 3. Whenever four hundred shares of said capital stock shall have been taken as aforesaid, said commissioners, or a majority of them, may, upon ten days' notice, posted at the door of the post office in said village of Grand Rapids, or published in some newspaper of said village, call a meeting of the stockholders at the time and place specified in such notice, who shall be authorized to elect from their number, five directors, a majority of whom shall constitute a quorum, and who shall hold their offices for one year from and after their election, and until their successors are duly elected and qualified, and such board may choose such officers thereof as they may by resolution or by-laws designate.

Bridge, &c., may be purchased by the county of Wood.

SECTION 4. The county of Wood shall have the right, any time after five years from the passage of this act, to purchase the said bridge, by paying to said

company the value at which the same shall then be appraised, to be ascertained by three disinterested appraisers, not residents in Wood county, one of whom shall be selected by said county, another by said company, and the third by the two so chosen, who, upon their oath, shall appraise the bridge so erected by said company, and its appurtenances, including toll house and the soil or landing place upon which the western end of said bridge shall rest, and right of way thereto, if the same shall belong to said company, at their fair value. And, upon the payment by said county to said company of the appraised value of said property as ascertained by the award in writing of said appraisers, or a majority of them, within one year after the date of said award, the said bridge shall become a free bridge, but the franchises hereby granted to said company shall continue until said county shall purchase said bridge.

Prohibition.

SECTION 5. Until the said county of Wood shall so purchase said bridge, no person or persons shall have the right to build any toll or free bridge across said Wisconsin river, within two miles of the bridge authorized to be constructed by the said Grand Rapids bridge company.

Repeal.

SECTION 6. So much of chapter 142 of the private and local laws of 1859, and chapter 364 of the private and local laws of 1856, referred to in the first section hereof, as comes within the purview of this act, or is contrary thereto, is hereby repealed.

SECTION 7. This act shall be in force from and after its passage.

Approved March 29, 1661.

CHAPTER 42.

AN ACT to authorize Burrage B. Downs to construct and maintain a dam across the Red Cedar river, in the county of Dunn.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority.

SECTION 1. Burrage B. Downs, his executors, heirs and assigns, are hereby authorized and empowered to

CHAPTER 43. build and maintain a dam of the hight of eight feet above the ordinary hight of water, across the Red Cedar river, in the county of Dunn, at the most convenient point on or in front of lots 2, 3, 5, 7 and 8, in section 34, in township 27, of range 13 west of the fourth principal meridian, and to erect mills or other machinery, or in any other manner to make use of the water for hydraulic purposes.

Width, &c. SECTION 2. The owners of said dam shall construct a sufficient slide or chute in said dam, at least twenty-two feet wide, in such manner as to allow the free passage of rafts and boats descending said river, and to permit fish to ascend the same.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 29, 1861.

CHAPTER 43.

AN ACT to authorize Ira Mead to maintain a boom at Merideen island, in the Chippewa river.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority. SECTION 1. Ira Mead, his associates, heirs or assigns, are hereby authorized and empowered to keep and maintain a boom at Meridan island, in township No. twenty-six (26,) north of range No. eleven (11,) west of the fourth principal meridian; and the said Ira Mead or his legal representatives, are hereby authorized to use Meridan slough as a place for booming logs, to extend a boom across said slough for the purpose of keeping logs in said slough; also, to extend a boom from the head of Meridan island into the Chippewa river, so far as may be necessary the sheer or turn logs into said slough or boom.

How constructed SECTION 2. Such boom shall be so constructed as to admit the free passage of boats or other water craft passing up or down the main channel of the Chippewa river, and the proprietors of said boom shall not detain the logs of other persons longer than a sufficient time to sort out their own logs from the remainder of the drive.

SECTION 3. The proprietors of said boom are hereby empowered to stop all logs owned by them or other persons (when expressly notified by such other persons so to do) in said slough; and for all logs caught and secured in said slough and properly delivered to the owners thereof, the said Ira Mead or his legal representatives, shall be entitled to the sum of fifty cents per thousand feet, (board measure,) to be recovered of the persons requesting their logs to be stopped as aforesaid. May stop logs &c.

SECTION 4. Any person or persons who shall willfully break or injure the aforesaid boom or the appurtenances thereunto belonging, shall be responsible to the proprietors thereof in an action of trespass for the amount of damage done, in addition to the penalty already provided by law, to be recovered before any court of competent jurisdiction. Penalty for breaking, &c.

SECTION 5. This act shall be in force from and after its passage.

Approved March 29, 1861.

CHAPTER 44.

AN ACT to incorporate the Madison horticultural society.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. G. H. Barwise, Stephen G. Benedict, John Budd, George Capron, Julius T. Clark, Reuben S. Garlick, J. W. Hoyt, Joseph Hobbins, George Hyer, William T. Leitch, J. T. Stevens, William P. Towers and William H. Watson, and their associates and successors, are hereby constituted a body corporate, by the name and style of the "Madison horticultural society," for the purpose of promoting improvement in the various departments of horticulture and the dissemination of useful knowledge in relation thereto. Corporators.

SECTION 2. The corporation hereby created may have a common seal, and alter the same at pleasure, may, by its corporate name, sue and be sued, contract and be contracted with, and may be capable of acquiring by purchase or otherwise, any quantity of lands Powers of corporation.

CHAPTER 45.

not exceeding five acres, and may erect thereon, or obtain possession of, by purchase or otherwise, suitable buildings for the purpose of meetings and exhibitions; may acquire and hold and dispose of such personal estate as the president and directors of said association may deem necessary and proper; and may, in their corporate name, do any and every other act not inconsistent with the constitution and laws of this state, which in the opinion of the president and directors of the association, will contribute to advance its object.

First election of officers, &c.

SECTION 3. The persons named in the first section of this act, or a majority thereof, may meet on Saturday, March 30th, and elect by ballot a president, secretary and five directors, and shall provide for such constitution and by-laws, and such other officers as they shall deem necessary for the good management of the affairs of the association; and the president and directors thereof shall, when authorized by vote of the association, have power to cause books of subscription to the capital stock of said association to be opened, and may close and reopen the same when they may deem proper.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved March 29, 1861.

CHAPTER 45.

AN ACT to incorporate the Milwaukee independent gymnastic association.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. A. Cordier, Charles Von Baumbach, L. Biedemeister, Jacob Moor, F. Krueger, G. Linneburg, G. Grieser, G. Mueller, H. Riemenschneider, W. George, J. Mampel, J. Mueller and A. F. Greulich, who have united themselves into an association for the purpose of teaching and learning gymnastics, and for cultivating and improving the faculties of the body as well as of the mind, by gymnastic exercises, and by establishing and sustaining a reading room and a library, and

for other similar purposes, and their associates, are hereby created a body politic and corporate, located in the city of Milwaukee, and known by the name of "the Milwaukee independent gymnastic association," or, in German, "der unabhangige Turnverein, Milwaukee."

Powers of corporation.

SECTION 2. The said corporation shall have power to contract and to be contracted with, to sue and to be sued, to plead and to be impleaded with, to answer and be answered unto, to defend and to be defended, in all courts of law and equity in this state, and shall have perpetual sucession and be vested with all the powers and privileges necessary to carry out and fulfil the object of their corporation.

Ibid.

SECTION 3. Said association shall keep a common seal, and shall have power and authority to acquire, purchase, receive, possess, be seized with, and enjoy property, real and personal, not exceeding in value the sum of fifty thousand dollars; and the said association may alter said common seal, and sell, rent, demise, convey or otherwise dispose of their real and personal estate at pleasure; also, to effectuate loans, borrow money for the use of the corporation, to issue their bonds therefor, and to execute, sign, seal and deliver deeds, mortgages or other instruments in writing, as the case may require.

Constitution and by-laws.

SECTION 4. The said corporation shall have further power to establish for its government a constitution and by-laws, not inconsistent with the constitution or laws of this state, and make such rules and regulations as may be deemed necessary to carry into effect the object of their association.

Trustees.

SECTION 5. The members of said association shall have power to assemble and meet at such times and places as may be agreed upon, and they shall elect any number of distinct [discreet] persons of their association, not less than three nor more than nine in number, as trustees, to take charge of the real and personal property belonging thereto, as the laws of this state require, and to transact all business relative to the investment and disposal thereof.

Other officers.

SECTION 6. It shall be lawful for said association to elect and appoint such other officers as the condition and the circumstances of the corporation may require, and to prescribe their powers and duties, and require bond and security for the faithful performance thereof,

CHAPTER 46.

in such penal sum and with such sureties as they may choose, and also prescribe the term of their office: *provided, however*, that the trustees shall hold their offices in conformity with the law, for at least one year and until others are elected.

Term of office of trustees.

How property to be devoted, &c,

SECTION 7. The property, real and personal, of said corporation, shall be solely devoted to the purposes and objects of said association, and all real and personal estate which has been or may hereafter be lawfully conveyed, by devise, gift, grant, purchase or otherwise, to said society or to any person or persons in trust for said association, shall descend, with all improvements and appurtenances, in perpetual succession to, and be held by, the trustees in trust for said corporation.

SECTION 8. This act shall take effect from and after its passage.

Approved March 29, 1861.

CHAPTER 46.

AN ACT relating to the Orphans' aid society in Kenosha.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Name changed.

SECTION 1. The name of the "Orphans' aid society" in Kenosha, incorporated in pursuance of the provisions of chapter one hundred and eighty-seven of the revised statutes, is hereby changed, and shall, from and after the passage of this act, be known by the name, "Home of the friendless." All real estate and other property heretofore acquired in the corporate name of said Orphans' aid society, shall vest in the corporation hereafter known as the "Home of the friendless."

Corporation may include adults.

SECTION 2. The corporation known, from and after the passage of this act, as the "Home of the friendless," in addition to the objects of charity provided in the original incorporation of said "Orphans' aid society," shall be allowed to include adult persons.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 29, 1861.

CHAPTER 47.

AN ACT to incorporate the Kewaunee and Green Bay railroad company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. Chas. D. Robinson, Edward Decker, H. S. Baird, Fred. S. Ellis, C. H. Cunningham, Michael Arnedt, James R. Slauson, G. W. Elliott, John Axtell, D. Youngs, L. P. Congdon, Edward Weyman, D. D. Garland and L. Hammond, and such other persons as may become associated with them, as subscribed [subscribers] to the capital stock of this corporation, in the manner hereinafter prescribed, and their successors and assigns, are hereby created a body corporate, by the name of the Kewaunee and Green Bay railroad company, and by that name shall be and are hereby made capable in law to purchase, hold and enjoy and retain, to them and their successors, lands, tenements and hereditaments, as far as may be necessary for the purpose of said railroad, and the same to sell, grant, rent or in any manner to dispose of; to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, and also to make and use a common seal, and the same to alter, break or renew at (*at*) their pleasure, and if either of the persons named in the first section of this act, should die, or refuse or neglect to execute the powers and discharge the duties hereby created and enjoined, it shall be the duty of the remaining persons hereinbefore named, or a majority of them, to perform the duties required by this act.

Name.

Capital stock.

SECTION 2. The capital stock of said corporation shall be ten hundred thousand dollars, and shall be divided into shares of one hundred dollars each, and five dollars shall be paid on each share at the time of subscribing said stock.

First directors.

SECTION 3. The persons named in the first section of this act shall be and are hereby made, constituted, appointed and declared the first directors of said company, and shall hold their offices until other directors are elected by the stockholders, and shall possess all the powers conferred by this act upon the board of directors elected by the stockholders as hereinafter provided.

CHAPTER 47.

Opening books of subscription.

SECTION 4. The board of directors, or a majority of them, are hereby authorized to open books for receiving subscriptions to the capital stock of said company, at such times and places as they may designate, giving at least thirty days' notice of such times and places, by publishing the same in some newspaper printed in Kewaunee county.

First election of directors.

SECTION 5. As soon as said stock, or the sum of ten thousand dollars thereof, shall have been subscribed, the above named persons, or a majority of them, shall give like notices of the time and place for the meeting of the stockholders to choose not less than seven nor more than thirteen directors, which number shall be determined by a vote of the stockholders then present, and the directors thus elected shall hold their offices until the next annual meeting of stockholders for the election of directors, and until others are elected.

Board of directors.

SECTION 6. All the affairs of said corporation shall be managed by the board of directors, who shall be stockholders, and the board of directors is hereby invested with all the powers of the corporation. They

To be annually elected.

shall be chosen by the stockholders annually by ballot, at the annual meeting of the stockholders, which shall be held at such time and place as the directors shall from time to time prescribe; and the same notice of every such election shall be given as is herein required to be given of the first election of directors. At all meetings of the stockholders, the votes of the stockholders may be cast in person or by proxy duly authorized, and every stockholder shall be entitled to one vote for each and every share of stock held by him; and in all elections for directors, those stockholders equal to the number of directors to be elected having the greatest number of votes, shall be declared duly elected. The election shall be conducted in such manner as shall be prescribed by the by-laws or by resolution of the company. If, for any cause, an election of directors should not be had at the time when by [the] provisions of this act it should be had, the same may be had [at] any other time on notice being given as aforesaid, and until such election be had, the directors of the preceding year shall continue to act, and the corporation shall not forfeit or lose any of its privileges, franchises or immunities by reason of irregularity or want of any such election.

Failure to elect, not a loss of franchise.

SECTION 7. A majority of the board of directors shall constitute a quorum for the transaction of any business. They shall meet at such times and places and be convened in such manner as they shall prescribe. They may fill any vacancy which may occur in their own board. They shall appoint one of their own number president, and one vice-president, who shall serve one year or until a new election of directors. The president, when present, shall preside at all meetings of the directors and stockholders, and in his absence the vice-president shall discharge the duties of president, and in case of the absence of the president and vice-president, the directors may appoint a president *pro tem.*, who shall discharge all the duties of president during the absence of the president and vice-president. The board of directors may appoint a secretary, treasurer, chief engineer, superintendent, attorney, and such other officers and agents as they may find necessary, fix their compensation and define their duties, and demand adequate security for the faithful discharge of their respective duties and trusts. The directors shall have power to determine the amount of each installment to be paid from time to time on stock subscriptions, and to forfeit to the use of the company, or to sell the share or shares of any person failing to pay any installment which may be required of them by the directors; but they shall not declare it so forfeited until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in the notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company, which notice shall be served as aforesaid at least thirty days previous to the day on which such payment is required to be made. They may receive, take and hold, in payment for the stock of said company, any lands or other estate either real, personal or mixed, and they may convey in fee simple (*in*) any estate so received, taken or held, and they may also mortgage or pledge any of their estate, either real, personal or mixed, in such manner and on such terms as the directors may think proper. The directors shall have power to establish and regulate their

Quorum.

Meetings.

President and vice president.

Other officers.

Forfeiture of stock.

May receive and convey real and personal property.

CHAPTER 47.

Tolls and charges.

tolls and charges for the transportation of freight and passengers and the storage of freight, and to collect all such tolls and charges, and to make such covenants and agreements with any person or persons, co-partnership or corporation whatever, as the construction and management of the road and the convenience and interest of the company may require; to make any contract or agreement which they may think proper with any other railroad company for the leasing or purchasing of the whole or any part of any railroad constructed or to be constructed by such railroad company, and to lease or to sell to any other railroad company the whole or any part of the railroad of this company, or to consolidate the capital stock of this company with the capital stock of any other railroad company in this state, on such terms as shall be agreed upon by the directors of such companies respectively. The directors shall have power and authority to make and establish such by-laws as they may think proper respecting the property, business, stock, government and power of said corporation, and may exercise all the powers which may be prescribed by such by-laws, and make such other rules, regulations and orders as they may think proper; but no such by-laws, rules, regulations or orders shall be inconsistent with this act or with the constitution or laws of this state; and they shall have power in general to superintend and direct all the operations, receipts, disbursements and all other affairs of said company.

Contracts.

May lease, sell or consolidate.

By-laws.

Shares deemed personal property.

SECTION 8. All shares of stock in said company, owned by any person, shall be deemed personal property, and certificates for the same shall be issued in such manner and form as shall be prescribed by the by-laws, and the same shall be transferable in the manner and form prescribed by the by-laws of said company.

Special meetings

SECTION 9. Special meetings of the stockholders may be called by order of the board of directors, or by stockholders owning one-fourth of the capital stock of said company, and the same notice shall be given as is required to be given for annual meetings of the stockholders, and such notice shall specify the object of the meeting.

SECTION 10. The said company shall have power to locate and construct and perpetually to have, use and enjoy, a railroad with one or more railways or tracks from such place on Lake Michigan, in the county of Kewaunee, as the directors of said company may determine, to the city of Green Bay, in Brown county, and said company shall have the perpetual right, power and authority to transport, take and carry property and persons upon said road, by the power and force of steam, or by animals or any mechanical or other power or any combination of power, and from time to time to receive and store any property in any of the depots, storehouses or warehouses of said company, and to make and contract all such turnouts, side tracks and connecting tracks, as they shall think will promote the interests of said company, and to erect, construct and use all such depots, station-houses, warehouses, car-houses and shops, and all other fixtures useful for the accommodation of said company and its road, and those using it, to purchase and own rails, chains, spikes, engines, cars and all things necessary or useful for the construction and operation of a railroad.

May locate and construct a railroad, &c.

SECTION 11. The said company is authorized and fully empowered in its corporate capacity, to borrow any sum or sums of money from any person or persons, corporation or body politic, of any kind and for any rate of interest which may be agreed upon by and between said company and any party of whom such money may be obtained, any law on the subject of usury, to the contrary notwithstanding, and to make, execute and deliver in or out of the state, all necessary writings, notes, bonds, mortgages or other papers and securities in amount or kind, as may be deemed expedient by said corporation in consideration of any such loan or in discharge of any liabilities they may incur in [the] construction, repair, equipment or running [of] said road, and to make, execute, sell and deliver at private or public sale, in or out of this state, bonds in such sums and in such amounts, payable at such times and bearing such rate of interest, as shall be deemed expedient by said company, secured by a mortgage upon the whole or any part of the railroad of said company, with its equipments, fixtures and appurtenances; and the powers of said corporation for the purposes aforesaid, and for all purposes necessary to carry out the objects of said

May borrow money, &c.

CHAPTER 47.

company, are hereby ratified and confirmed, and the contracts and official acts of said company declared binding in law and equity upon said corporations [corporation] and upon all other parties to such contract.

Right of way.

SECTION 12. The said company shall have the right and authority to construct their said railroad upon and along, across, under or over any public or private highway, road, street, plankroad or railroad, if the same shall be necessary, but the said company shall restore such highway, road, street, plankroad or railroad to its former state, so as not to impair the usefulness of the same, so far as it can be done consistently with the rights and privileges hereby granted to said company, or make compensation for the same as provided for in section fourteen (14) of this act; and said company shall have the right and authority to erect and

Bridges.

maintain all necessary bridges for the use of their railroad, over any stream of water or water course at such points of crossing the stream as they may locate the said road, with all necessary abutments, piers or other

Navigation not to be obstructed without consent, &c.

foundations; but nothing in this act contained shall be construed to authorize the erection of any bridge or any other obstruction across, in or over any stream or lake navigated by steam or sail boats, at the place where any bridge or other obstruction may be proposed to be placed, nor to authorize the construction of any railroad not already located in, upon or across any streets in any city or village, without the assent of the corporation of the same; and shall restore such stream which may be obstructed or diverted in the progress of construction of said railroad, to its natural channel.

May survey and use land on line of road.

SECTION 13. It shall be lawful for said company, their officers, engineers and agents, to enter upon any land for the purpose of exploring, surveying and locating the route of said railroad, doing thereto no unnecessary damage; and when the route of said railroad shall be determined by said company, it shall be lawful for them, their agents, officers, engineers, contractors, employees and servants at any time to enter upon, take possession of, and use any such land not exceeding one hundred feet in width, along the line of said road, and also such lands adjacent to the line of said route, beyond the said limits of one hundred feet, as the chief engineer of said company shall declare to be necessary in building said road, or for the purpose of erecting

depot buildings, station-houses or other fixtures and grounds about the same, for the operation and business of said road, or for making drains and giving a proper direction to water courses, or for diverting or changing the channel of water courses across or along said road, or for the purpose of removing such substances and things as may endanger, obstruct or interfere with the free use of said road, or for the purpose of making deep cuts or excavations, or for the purpose of obtaining earth, gravel, timber, stone or materials for embankments, structures or superstructures, necessary to the construction or repair of said road, subject, however, to the payment of such compensation as the company may have agreed upon to pay therefor, or as shall be ascertained in the manner hereinafter provided; and when such compensation shall have been paid or tendered, the title to said land shall vest in said company in fee simple, and the said company shall have the right to hold the same, and whenever in the opinion of the company, the same or any part thereof shall be no longer necessary for the purposes for which the same was taken, the said company is hereby authorized to lease or sell the same or any part thereof in fee simple.

Water courses.

Clearing obstructions.

Compensation.

To agree with owners.

SECTION 14. The said company shall have the right to enter upon any lands required for their use, as provided in the thirteenth section of this act, and to survey and lay out said road, not exceeding one hundred feet in width, and the said company shall, if possible, agree with the owner of said lands as to the amount of compensation to be paid for such lands, whether such person shall own or possess the legal or equitable title to the same, or any lien or incumbrance on the same; and if the person or persons owing or possessing such legal or equitable title, lien or incumbrance shall be a minor, *non compos mentis*, insane or under any legal disabilities, then with the guardian of such person, and if said company cannot agree with or ascertain who are such guardian or owner, then the question of compensation shall be submitted to an arbitration in the following manner, to wit: The said company shall select a disinterested arbitrator, and such owner or guardian shall select another, who shall be disinterested and not akin to the owner or agents of such land; and should the persons so selected as arbitrators refuse or neglect, or should such owner or guardian neglect or

In case of disagreement to choose arbitrators.

CHAPTER 47.

refuse to choose such arbitrator for the space of five days after being notified by said company to do so, or in case said company cannot find such owner or guardian, then, in either, case the judge of probate or the chairman of the county board of supervisors of the county in which such lands lie, shall, upon application being made to either of them by the president or by a majority of the directors of said company or by its legally authorized agent or attorney, appoint three competent persons to act as arbitrators, who shall not be akin to the claimants, and who are not stockholders in said company, and the said arbitrators shall proceed to examine the premises and to make an award of the amount of compensation which shall be paid by said company to such person or persons for the land so taken, and shall deliver a copy of their award in writing to each of the parties; and if the amount awarded by said arbitrators shall be more than said company had previously offered to pay, the said company shall pay all expenses of said arbitration; if it shall be less, then the other party shall pay such costs; and either party may, within ten days after receiving a copy of such award, appeal from the same to the court having the proper jurisdiction for the county in which such lands are situated, by giving a written notice of such appeal to some one of the arbitrators; and when the arbitrator receives such notice of appeal, it shall be the duty of the arbitrators to certify all their proceedings to said court, and the said court shall enter said case on its docket, setting down the claimant or claimants as plaintiff and the said company as defendant; and the said court shall proceed to ascertain the amount of compensation to be paid by said company to said complainant, taking into consideration all the facts and circumstances, all the rights said company acquired by this act, and all the benefits received by the complainant from said railroad, and the said court shall thereupon proceed to hear, determine and render judgment in favor of said complainant, against said company, as in other cases tried in such court; and if the amount so found for such complainant shall exceed the amount so found by said arbitrators, the judgment shall be rendered against said company for costs; and if it shall not exceed the amount so found by said arbitrators, the judgment shall be rendered in favor of said

Expenses.

Appeal.

Judgment of court, costs, &c.

company for costs and against said claimants; and when such compensation so to be ascertained according to the provisions of this section, shall be paid or tendered to the parties entitled to the same, the title to said lands shall vest in said company in fee simple, and a copy of such award or judgment filed and recorded in the proper deed book in the office of the register of deeds of the county in which the lands lie, shall be sufficient evidence of such title. And the said company shall have full power and authority pending all such proceedings, and until they shall refuse to pay the compensation so to be ascertained as aforesaid, to use, occupy and enjoy the peaceable and uninterrupted possession of said land or lands for all the purposes of said corporation, and they shall not, while such proceedings shall be pending, or until such refusal, be disturbed in such possession, use, occupancy and enjoyment by any proceedings at law or in equity. The said arbitrators shall, before they enter upon the duties of their appointment, severally take and subscribe an oath to faithfully and honestly decide, between the parties, which oath shall be taken before some person authorized to administer oaths, and shall be returned with the award.

Title to vest in company.

Company to enjoy peaceable possession of lands during pendency of proceedings.

Arbitrators to take an oath.

SECTION 15. No person shall be incompetent to be a witness or give testimony in a suit or proceeding at law or in equity in which the said railroad company shall be a party, but no person shall be qualified to discharge the duties of judge, justice of the peace or juror, in any suit or proceeding, who is a stockholder in said company.

Competency of witness, &c.

SECTION 16. On the completion of said railroad, or any part thereof, not less than three miles in length, it shall and may be lawful for the company to demand and receive such sum or sums of money for freight, or passage and freight, of persons and property, as they shall from time to time think reasonable.

Freight and fares.

SECTION 17. If any person shall willfully and knowingly injure or destroy the railroad so to be constructed by said company, or any part thereof, or any work, building or machinery attached to or in use upon the same, belonging to said company, or shall willfully and maliciously place any obstruction or thing upon the track of said road, such person or persons so offending shall each of them for every such offense, forfeit and

Penalties for injuries to road.

CHAPTER 48.

pay a sum not exceeding three times the amount of damages caused by such offense, which may be recovered in the name of said company, by action of debt, in any court having competent jurisdiction in the county wherein the offense shall be committed, and shall also be subject to indictment, and upon conviction of any such offense, shall be punished by imprisonment and fine, or either, at the discretion of the court.

Public act.

SECTION 18. This act is hereby declared to be a public act, and shall be favorably construed to effect the purposes hereby intended, and copies thereof printed by authority of the state, shall be received as evidence thereof in all cases, and this act shall be in full force and effect from and after its passage.

Approved April 4, 1861.

CHAPTER 48.

AN ACT to amend an act to incorporate the Watertown, Hubbleville, Portland and Waterloo plankroad company, and the several acts amendatory thereto.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Company may abandon or sell their road.

SECTION 1. Said company are hereby authorized to abandon and give up to the public, or to sell and dispose of, the whole or any part of this road, whenever they may choose so to do, and the city of Watertown and the towns of Shields and Milford are hereby severally authorized to purchase so much of said road as lies within their respective limits.

Bridge across the Crawfish declared a toll bridge.

SECTION 2. The bridge of said company across the Crawfish river, in the town of Milford, in the county of Jefferson, is hereby declared a toll bridge, and said company are hereby authorized to maintain the same, and demand and collect toll for crossing the same at

Rates of toll.

and after the following rates, to wit: For every vehicle, sleigh, sled or carriage drawn by one animal, 5 cents; for every vehicle, sleigh, sled or carriage drawn by two animals, 10 cents; for every additional animal, 5 cents; for every horse ridden or led animal, 5 cents; for swine or sheep, each head, 1 cent: for cattle or

other animals in droves, each head, 2 cents. And said company are hereby authorized to erect a toll gate or toll gates at or on said bridge, to collect said toll.

List to be kept posted.

SECTION 3. Said company shall keep posted up in a conspicuous place on said bridge, a list of the tolls authorized by this act.

Toll to be deducted, &c.

SECTION 4. The amount of toll charged for crossing said bridge shall be deducted from the amount heretofore authorized to be charged by said company for traveling over said road, and in case said road shall be abandoned east of said Crawfish river, then no more toll shall be charged than is hereby authorized for crossing said bridge.

Penalties, &c.

SECTION 5. All penalties and forfeitures provided for in the several acts of which this is amendatory, shall apply to the collection and enforcement of tolls for crossing said bridge, and to injuries to the same and its toll gate and appurtenances.

SECTION 6. This act shall take effect and be in force from and after its passage.

Approved April 6, 1861.

CHAPTER 49.

AN ACT to vacate portions of Flint's addition to the town of St. Croix.

The People of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

Blocks, lots, &c., vacated.

SECTION 1. The plat of blocks, lots, streets and alleys, excepting only blocks number seven, (7) fourteen (14) and fifteen, (15) and Maryland street and Quincy avenue in said plat, situated in the southeast quarter of section nineteen, (19) of township number thirty-four, (34) north of range eighteen (18) west, known as "Flint's addition to the town of St. Croix," and recorded in the office of register of deeds of Polk county, on pages eighty-one (81) and eighty-two (82) in volume No. 2, of deeds of said county, is hereby vacated.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 6, 1861.

CHAPTER 50.

AN ACT to confer additional powers upon the Home collegiate institute, at Whitewater, Wisconsin.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. That Simeon E. Cobb, Sheldon C. Hall, William DeWolf, D. S. Cook, P. H. Brady, J. L. Pratt, George Dann, Edson Kellogg and N. M. Littlejohn. their associates and successors, be and are hereby created a body corporate and politic, with perpetual succession, under the name and style of the Home collegiate institute, and shall have power to sue and be sued, contract and be contracted with, plead and be impleaded, in all courts of law and equity; to acquire, hold and convey property, real and personal, to have and use a common seal, and to make and alter the same at pleasure; to make and alter from time to time, such rules and by-laws as may be lawful and proper for the transaction of business and good government of the institution, its officers, servants, pupils and employees, and to do all other lawful and necessary acts in furtherance of the object of said corporation; the object of said corporation being, and the same is hereby declared to be, the establishment and maintenance of a military and agricultural boarding college, founded upon a joint stock basis, and located within the corporate limits of Whitewater.

Style and corporate powers.

Board of trustees

SECTION 2. The persons named in the first section of this act, and their successors in office, shall constitute a board of trustees, and shall have and exercise all powers and duties belonging to the corporation not hereinafter conferred upon the stockholders.

Departments.

SECTION 3. The board may establish and maintain in said institution, a department of science, literature and art; a department for instruction in the theory and practice of elementary instruction; a preparatory department; an orphans' primary department; also, an agricultural and a military department.

May purchase and hold lands.

SECTION 4. Said corporation may, in addition to a site of twenty acres, purchase, hold, rent, lease or convey any amount of land not exceeding one hundred and sixty acres, which may be needed by said institution for agricultural purposes.

Military department.

SECTION 5. The military department shall be furnished with arms and equipments by the state, at the governor's discretion, upon proper bond and security being filed; and any student who shall have performed his duty faithfully, as a cadet in said department, for the space of two years, shall forever thereafter be exempt from duty under the militia laws of this state, except in case of insurrection, or actual invasion.

How streets, &c., intersecting site, may be closed.

SECTION 6. All lanes, alleys or streets intersecting the grounds selected by the resident stockholders, and purchased by the board as a site for the institution, may be closed so far as may be necessary for enclosing the several blocks comprised in the said site, into one tract or body of land, such as may be suited to the uses of the institution, when the trustees shall have procured the written consent of all residents of said streets, lanes and alleys to be closed, if there be any residents thereon, and filed the same in the office of the register of deeds for Walworth county.

Powers of board.

SECTION 7. The board shall have power to choose such teachers and officers, and establish such chairs and professorships, as the various departments of the institution may require, and may grant and confer such literary honors and degrees as are usually conferred in colleges, universities and seminaries of learning in the United States, and in testimony of such grants to give suitable diplomas.

Trustees—term of office of present board.

SECTION 8. One-third of the present board of trustees shall hold their office until the last Saturday in December, 1861, one-third until the last Saturday in December, 1862, and one-third until the last Saturday in December 1863, and it shall be the duty of said board to arrange themselves into classes as above designated, by lot or otherwise; all trustees to perform the duties of their several offices until their successors shall have been duly chosen and qualified.

Annu'l meetings.

SECTION 9. A meeting of the stockholders shall be annually held in the town of Whitewater, Walworth county, Wisconsin, on the last Saturday of December, at such place as the board of trustees may designate, and the board shall give ten day's notice of such time and place, for the transaction of business and for the election of three trustees; said trustees to hold their several offices for the term of three years and until

CHAPTER 50.

their successors shall have been duly chosen, and until the same shall have qualified.

Officers.

SECTION 10. As soon as practicable after each annual election of trustees, the highest remaining officer of the board shall call a meeting of trustees, and they proceed to elect from their number a president, vice president, secretary, treasurer, auditor and advocate, who shall hold their respective offices for the term of one year, performing all the duties and complying with all the rules enjoined upon such officers by the by-laws of the corporation, until their successors shall have been appointed and duly qualified.

Vacancies—how filled.

SECTION 11. The trustees shall have power to fill all vacancies which may occur in the board from death, resignation or any other cause not hereinbefore provided for, by election or appointment from among the stockholders, and may fill any official vacancy that may occur in the board between the annual elections of officers, from among their number, by ballot or otherwise.

Quorum.

SECTION 12. A majority of the board shall constitute a quorum for the transaction of business, and at least two-thirds of their number shall be residents of the town of Whitewater.

Capital stock.

SECTION 13. The capital stock of the corporation shall not exceed one hundred thousand dollars, and shall be divided into shares of one hundred dollars each, and may be subdivided as the by-laws of the corporation may direct.

Shares deemed personal property.

SECTION 14. The shares of stock shall be deemed personal property, and may be transferable upon the books of the corporation, in such manner as the by-laws may direct.

Annual statement.

SECTION 15. It shall be the duty of the board to make an annual statement of the receipts and expenditures of the institution, embodying a true and faithful report of the financial condition of the corporation, verified by the president, secretary and treasurer, to be presented by the secretary to the stockholders at their annual meeting in each year.

Acts confirmed.

SECTION 16. Whereas, this act is intended to confer new privileges and powers upon a corporation organized January 19th, 1861, in the town of Whitewater, under the general act relating to academies and seminaries, (p. 485 R. S. 1858,) and known under the name and style of "Home collegiate institute," all acts,

proceedings and by-laws of the said corporation as before organized, and all contracts made by and with the same, are hereby confirmed and declared binding upon the parties thereto, according to their original intent.

Powers, &c.

SECTION 17. The said corporation as now organized shall continue to have and to exercise all the powers, privileges and liabilities of chapter 55 of acts of a general nature of 1855, page 485, R. S., so far as the same may be applicable to and not inconsistent with the provisions of this act.

Declaratory.

SECTION 18. Whereas, no general act of incorporation has provided for the organization of schools of a higher grade than academies and seminaries, it is hereby declared that, in the judgment of the legislature of this state, the full objects and intentions of the corporation named in this act, cannot be obtained under the said general act above named, or under any other general act of incorporation now existing.

SECTION 19. This act to take effect from and after its passage.

Approved April 8, 1861.

CHAPTER 51.

AN ACT to legalize the organization of the Green Bay turners' society, and to authorize said society to hold real and personal property, and to exempt the same from taxation.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Organization declared valid, &c.

SECTION 1. The organization of the Green Bay turners' society, made on the second day of October, A. D. 1860, under and by virtue of chapter 74 of the revised statutes of Wisconsin, under the name and style of the Green Bay turners' society, is hereby declared valid and effectual, any provisions of law to the contrary notwithstanding; and said society, organized as aforesaid, shall, under the name and style of the Green Bay turners' society, have and possess all the powers and privileges conferred upon societies named in said chapter 74 of the revised statutes.

CHAPTER 51.

May hold and convey real estate, &c.

SECTION 2. It shall be lawful for said society to receive and hold real and personal estate by grant, purchase, devise or otherwise, as may or shall be actually occupied and used by it for the purposes for which it was organized, and subject to the by-laws of said society and such regulations as such society shall make touching the disposition of the same, now or hereafter; and for the purpose of securing the payment for such real and personal estate as said society may purchase or acquire under the provisions of this act; the trustees of said society, duly authorized thereto by the by-laws of said society, are hereby authorized to execute and deliver, in the name of said society, notes, mortgage or mortgages, or any other instrument in writing, or evidence of debt, to the grantor of any such estate, real or personal, or to any other person, to secure the payment of the purchase money, or any part thereof, for such estate as aforesaid; and such note or notes, mortgage or mortgages, or other instrument of writing as aforesaid, after being duly executed and delivered for the purchase money aforesaid, shall be as binding between the parties and all others, as the like instruments in writing are by the laws of this state binding between individuals, and shall bind said society and its estate as fully as if said transaction was between individuals, and the same remedies shall apply between the parties thereto in regard to the respective rights under and by virtue of said instruments of writing as aforesaid.

Exemption from taxation.

SECTION 3. The property of said society shall be exempt from such taxation as the property of literary, benevolent, charitable and scientific institutions in this state, as provided in section 4 of chapter eighteen (18) of the revised statutes.

SECTION 4. This act shall take effect and be in force from and after its passage and publication in the Green Bay "Advocate," and the newspapers published in the city of Green Bay, Brown county, Wisconsin.

Approved April 9, 1861.

CHAPTER 52.

AN ACT to authorize Andrew Sheppard and John Valentine, their associates, successors and assignees, to keep and maintain a dam across Black river.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Andrew Sheppard and John Valentine, and their associates, successors and assignees, are hereby authorized to keep and maintain a dam across Black river, on land owned by them and described as follows: Lots numbered four (4) and five, (5,) of section number thirty-three, (33,) in township number twenty.one, (21,) range number four, (4,) west of the fourth principal meridian: *provided*, that said dam shall not interfere with any dam now erected across said river or its tributaries, or with the rights of any person heretofore acquired under and by virtue of any law of this state. Authority. Proviso.

SECTION 2. Said dam shall not exceed three and one-half feet in hight, and the proprietors thereof shall at all times keep and maintain a sufficient slide to admit the passage of rafts, timber or lumber down said river, and so as to admit the passage of fish up and down the same. Hight, slide, &c

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved April 9, 1861.

CHAPTER 53.

AN ACT to authorize the Waukesha county bank to reduce its capital.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Waukesha county bank, located at Waukesha, is hereby authorized to reduce its capital stock to sixty-five thousand dollars, the outstanding circulating notes of said bank being not greater than that sum, and said bank having filed a certificate with Capital may be reduced.

CHAPTER 54.

the secretary of state, in compliance with subdivision thirteen of an act to amend chapter 479 of the general laws of Wisconsin, approved May 18, [15,] 1858: *provided*, that the said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital up to and including the day on which this act shall take effect.

Proviso.

Certificate to be filed.

SECTION 2. The president and cashier of the bank named in section one of this act shall, immediately after its passage, file in the office of [the] bank comptroller a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved April 9, 1861.

CHAPTER 54.

AN ACT to authorize the officers of school district No. 2 in the town of Clinton, to borrow money for the use of said district.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amount and object of loan.

SECTION 1. The officers of school district number two in the town of Clinton, county of Rock, are hereby authorized to borrow, for the use of said district, any sum or sums of money not exceeding two thousand dollars, to be appropriated solely to the building of a school house in and for said district, and to make and execute, in the name of said district, any pledge or security, in such manner as said district may direct, to secure the payment of such money so borrowed, with the interest thereon, within four years thereafter: *provided*, that said money shall not be borrowed unless a majority of the inhabitants, qualified by law to vote at a school district meeting in said district, assembled for that purpose, at an annual or special district meeting called pursuant to law, shall authorize the borrowing of the same, and direct and determine the time and manner of repayment, and the nature and extent of the security to be given therefor.

Vote.

SECTION 2. This act shall take effect from and after its passage.

Approved April 9, 1861.

CHAPTER 55.

AN ACT to incorporate the Milwaukee city building society.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. Charles Herman, Conrad Wellaner, Herman S. Mack, Adolph Cordier and Valentine Fernekes, and all others who shall hereafter become associated with them by subscribing to the capital in the corporation hereby created, and their successors and assigns, shall be and are hereby constituted and made a body corporate by the name and style of "the Milwaukee city building society," and by that name shall be capable in law and equity of suing and being sued, pleading and being impleaded, answering and being answering unto, defending and being defended, in all courts and places whatsoever, in all manner of actions and causes; may have a common seal, which they may alter or renew at pleasure, and by that name shall be capable of purchasing, holding, selling, leasing, conveying, mortgaging or pledging any estate, real, personal or mixed, for the use and benefit of said corporation, and may take and hold such estate by gift, grant, purchase, devise, lease or otherwise: *provided*, the real estate to be held by this corporation at any one time shall not exceed the sum of one hundred thousand dollars.

Style and corporate powers.

Proviso.

Capital stock.

SECTION 2. The capital stock of said corporation shall be not less than one thousand dollars and not more than two hundred thousand dollars, and shall be divided into shares of ten dollars each, which shares and stock shall be deemed personal property, and may be transferred in such manner as the by-laws of the corporation may prescribe; and said corporation shall have power to make such by-laws as it may deem necessary, from time to time, not inconsistent with the laws of the United States or of this state.

Further powers.

SECTION 3. Said corporation shall have power to acquire by purchase, gift, devise, lease or otherwise, and hold and enjoy personal and mixed property of any kind, and also such real estate in the city of Milwaukee, as the said corporation or directors shall deem expedient to purchase, lease or otherwise acquire for the

CHAPTER 55.

purposes of the corporation, and thereon to erect and build such building or buildings as the said directors shall determine, and the same to use, occupy, convey, sell, mortgage, pledge or lease, in such manner and for such considerations as the directors of said corporation may, from time to time, determine, and the said directors shall have full power and authority to make all needful and proper contracts on behalf of said corporation.

Board of directors.

SECTION 4. The property and affairs of said corporation shall be managed and conducted by a board of five directors, a majority of whom shall constitute a quorum for the transaction of business, and who shall be elected annually, after the present year, by the stockholders, at such time and place and under such regulations as shall be prescribed by the by-laws or adopted by resolution of the board of directors; and at all such elections, each stockholder shall be entitled to one vote for each share of stock held by him in said corporation: *provided*, that no person shall be elected a director who shall not at the time be a stockholder in said corporation.

Proviso.

Officers.

SECTION 5. It shall be lawful for said board of directors to elect a president, secretary, treasurer and such other officers as the condition and the circumstances of the corporation may require, and to prescribe their powers and duties, and require bond and security for the faithful performance thereof in such penal sum and with such sureties as they may choose, and also prescribe the term of their office.

First board of directors.

SECTION 6. The five corporators named in the first section of this act, viz: Charles Herman, Conrad Wellaner, Herman S. Mack, Adolph Cordier and Valentine Fernekes, are hereby declared to be the first board of directors, whose term of office shall continue from the day of the passage of this act until the first day of May, 1862, (unless in case of death or resignation,) and until their successors shall be elected as aforesaid; and the said board of directors may open books of subscription to the capital stock, and receive such subscriptions thereto at such time and in such manner and upon such terms as the said directors shall determine, by resolutions or otherwise. In case of death or resignation of a director, the stockholders may elect one to fill the vacancy.

SECTION 7. The said corporation is hereby authorized and fully empowered, in its corporate capacity, to borrow money in any sum or sums from any person or persons, corporation or body politic of any kind, and to make, execute and deliver all necessary writings, bonds, notes, mortgages, or other papers and securities, in amount or kind as may be deemed expedient by the said corporation, in consideration of such loan or loans, or in discharge of any liabilities that it may incur in the purchase of such grounds or the erection of such building or buildings, and the purchase of materials therefor, to sell or dispose of such bonds, mortgages or other securities, for such sums and at such rates of discount as to the board of directors shall deem expedient. May borrow money, &c.

SECTION 8. This act shall be in force from and after its passage.

Approved April 9, 1661.

CHAPTER 56.

AN ACT to amend section 13 of chapter 106 of the laws of 1852, entitled "an act to incorporate the Milwaukee and Waukesha plank road company."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 13 of chapter 106 of the laws of 1852, entitled "an act to incorporate the Milwaukee and Waukesha plank road company," is hereby amended so as to read as follows: "The directors of said company may, at any annual, monthly or special meeting of the board of directors, provide for the increase of the capital stock of said company to any amount, limited by their charter, as they shall deem necessary from time to time to continue the building of new road, or or to rebuild or repair the road now or hereafter built, and to erect and repair gate houses thereon." Increase of capital stock, &c.

SECTION 2. All provisions in said charter, inconsistent with the foregoing amendments, are hereby repealed. Repeal.]

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved April 10, 1861.

CHAPTER 57.

CHAPTER 57.

AN ACT to incorporate the Kenosha gas light and coke company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. Samuel Hale, C. C. Sholes, William S. Strong, S. B. Scott, Josiah Bond, A. B. Smith, O. S. Head, Z. G. Simmons, Asahel Farr, Eli G. Runals and Edward Bain, are hereby created a body politic and corporate, with perpetual succession, by the name and style of the "Kenosha gas light and coke company," and by that name they and their successors shall be capable in law of contracting and being contracted with, suing and being sued, defending and being defended in all courts and places and in all matters whatsoever, with full power to acquire, hold and occupy and enjoy all such real and personal estate as may be necessary and proper for the construction, extension and usefulness of the work of said company, and for the proper management and good government of the same; and they may have a common seal, and the same may be altered and renewed at pleasure.

Style, and corporate powers.

Further powers.

SECTION 2. The corporation hereby created shall have full power and authority to manufacture and sell gas to be made from any and all of the substances or a combination thereof, from which inflammable gas can be obtained, and to be used for the purpose of lighting the city of Kenosha or the streets and public parks thereof, also, all buildings, public and private, therein contained, and erect all the necessary works and apparatus, and to lay pipes for the purpose of conducting the gas in and along any of the streets or avenues of said city. The real estate which this corporation is entitled to hold, shall not exceed in value twenty-five thousand dollars.

Capital stock.

SECTION 3. The capital stock of said company shall not exceed fifty thousand dollars, to be subscribed for and paid in such proportion as shall be prescribed by the by-laws and rules regulating the concerns of said company.

Board of directors.

SECTION 4. The property and concerns of said corporation shall. be managed and conducted by a board of eleven directors, a majority of whom shall constitute

a quorum for the transaction of business. The persons named in the first section of this act shall be the first directors of said corporation, and shall continue in office until others shall be chosen. The first election of directors shall be held on the first Monday of July, 1861, and annually thereafter, at the city of Kenosha, at 2 o'clock p. m. of said day. But if it shall at any time happen that an election of directors shall not be made on the day when, pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall be lawful on any other day to hold and make an election in such manner as shall be provided for in the by-laws of said corporation. Said corporation shall have the exclusive privilege of supplying the city of Kenosha and its inhabitants with gas, for the purpose of affording light, for twenty-five years from the completion of said works.

First directors.

First election of directors.

Privileges.

SECTION 5. The stock of said corporation shall be divided into shares of fifty dollars each, and in all elections of officers each share shall be entitled to one vote.

Shares.

SECTION 6. The directors of said corporation shall have power to appoint such officers and agents as they may deem necessary, and prescribe their duties and take the necessary bonds for the faithful performance thereof, and may from time adopt such by-laws and regulations for the business of said corporation as they may deem expedient; such by-laws and regulations not to be inconsistent with the constitution and laws of the United States or of this state.

Officers.

SECTION 7. An act entitled "an act to incorporate the Kenosha gas light and coke company," approved March 28, 1856, and the act amendatory thereof, approved March 29th, 1856, are hereby repealed.

Repeal.

SECTION 8. This act shall take effect and be in force from and after its passage.

Approved April 10, 1861.

CHAPTER 58.

AN ACT to authorize the State Stock bank to reduce its capital.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Capital may be reduced.

SECTION 1. The State Stock bank is hereby authorized and permitted to reduce its capital stock to two hundred and fifty thousand dollars, the outstanding circulating notes of said bank being less than that sum, and said bank having filed a certificate with the secretary of state, in compliance with subdivision thirteen (13) of "an act to amend chapter four hundred and seventy-nine of the general laws of Wisconsin for the year 1852, entitled an act to authorize the business of banking in the State of Wisconsin," approved May 15th, 1858: *provided*, that the said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital up to and including the day of the passage of this act.

Proviso.

Certificate to be filed.

SECTION 2. The president and cashier of the bank aforesaid shall, immediately after its passage, file in the office of the bank comptroller, a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

SECTION 3. This act shall take effect from and after its passage.

Approved April 10, 1861.

CHAPTER 59.

AN ACT to authorize J. R. Slauson, C. H. Cunningham and Isaac Taylor, to keep and maintain a dam, in the town of Montpelier, in Kewaunee county.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority.

SECTION 1. J. R. Slauson, C. H. Cunningham and Isaac Taylor, their successors and assigns, are hereby authorized to keep and maintain a dam not to exceed twelve feet high, across the Scarboror river, in section thirty-five (35,) in township twenty-four (24,) of range

twenty-three (23,) in the town of Montpelier, and county of Kewaunee: *provided*, the parties heretofore named shall pay or cause to be paid to the owners of lands which shall be overflowed by the keeping of said dam, just and reasonable damages therefor, and shall pay or cause to be paid to the town of Montpelier, such damages as shall be agreed upon by and between the said Slauson, Cunningham and Taylor, or either of them, and the board of supervisors of the town of Montpelier. Said amount, so agreed upon, shall be paid to the treasurer of said town of Montpelier, and when so paid, shall be in full payment to said town for the overflowing of any road therein, or other damage which said town may sustain by the keeping of said dam.

Damages to be paid.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 10, 1861.

CHAPTER 60.

AN ACT to authorize Ephraim E. Shaw and others, to keep and maintain a boom in Chippewa river.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Ephraim E. Shaw, Martin Daniels and Robert Jackson, their successors and assigns, are hereby authorized and empowered to keep and maintain a boom across the "Gravel Island slough," so called, the same being so much of the Chippewa river as lies on the south side of said island, on sections 11 and 12, town 28, north of range 9 west, in Chippewa county, state of Wisconsin; also, to keep and maintain such side, shore and glancing booms as may be necessary and convenient for them to stop, catch and hold logs in said Chippewa river, on said sections 11 and 12, town 28, range 9 west.

Authority.

SECTION 2. Said boom shall be so constructed as not to interfere with or hinder the free passage of boats, lumber and logs at any times, [time,] in the main channel of said Chippewa river.

Not to interfere, &c.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved April 11, 1861.

CHAPTER 61.

AN ACT to authorize the Bank of Horicon to reduce its capital.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority.

SECTION 1. The bank of Horicon is hereby authorized and permitted to reduce its capital stock to forty thousand dollars, the outstanding circulating notes of said bank being less than that sum, and said bank having filed a certificate with the secretary of state in compliance with subdivision 13 of an act to amend chapter 479 of the general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 15th, 1858: *provided*, that the said bank shall be required to pay to the state treasurer all taxes due the state on the full amount of its capital up to and including the day of the passage of this act.

Proviso.

Certificate to be filed.

SECTION 2. The president and cashier of the bank aforesaid shall, immediately after the passage of this act, file in the office of the bank comptroller a certificate under oath, stating the sum to which the capital stock of said bank is reduced.

SECTION 3. This act shall take effect from and after its passage and publication.

Approved April 11, 1861.

CHAPTER 62.

AN ACT to incorporate the Wisconsin mining, smelting and manufacturing company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. That Myron H. Hovey, John Childs, jr., James J. Hitchcock, Alexander W. Harvey, William H. Davis, George B. Martin, Lebbeus Chapman, jr., Daniel Jackson, William Wallace, jr., and their associates, successors and assigns, and all persons who shall hereafter become shareholders under the provisions of this act, are hereby created a body corporate

and politic, under the name and style of "the Wisconsin mining, smelting and manufacturing company," with perpetual succession, and by that name be, and they are hereby made capable in law and equity, to sue and be sued, plead and be impleaded, defend and be defended, in any courts of law and equity in this state, or in any other state or place; to make, have and use a common seal, and the same to alter and renew at pleasure. Style.

SECTION 2. The said corporation shall have power, and it is hereby authorized, to acquire by purchase, and to take, receive and hold conveyances by deeds, bills of sale or assignments, real, personal or mixed property, which may be necessary to be occupied, used, consumed and employed, in connection with or in aid of any corporate business which it may lawfully undertake, and also to acquire by purchase the ownership of any patent or patent right that may be necessary in connection with its lawful business, and also to own or charter vessels for the transportation of ores, metals, iron, &c. Corporate powers.

SECTION 3. The said corporation shall have power, and it is hereby authorized to build, construct, erect, lease, hire, rebuild, renew and keep in repair or cause the same to be done, for its own uses, smelting, blast, airpot or cupola furnaces, foundries, rolling mills, machine, boiler and other shops, and the same to furnish and equip with tools, implements and devices, and also to operate, run, use and employ the same. Furnaces, foundries, rolling mills, &c.

SECTION 4. The said corporation shall have power, and it is hereby authorized to employ and hire superintendents, managers, artizans, chemists, clerks, conductors, agents, mechanics, founders, smelters, engineers, laborers, servants and assistants to carry on, conduct and manage its corporate business. Employees.

SECTION 5. The said corporation shall have power, and it is hereby authorized to mine or purchase iron or other ores or minerals, and the same to smelt and convert into pigs, bars and other shapes; to manufacture, make, build and contract any description, kind and style of tools, implements, devices, machines or parts of machines used or to be used or employed for or in connection with any manufacturing, mechanical, agricultural, chemical or mining operations, or for any purpose connected with any modes of transportation, by Mining, smelting, manufacturing, &c.

CHAPTER 62.

land or by water, and the same to repair, vend, sell and dispose of, upon such terms as it may think proper, and also to have and exercise all such incidental powers as may be necessary to carry into full effect any of the express powers granted by this act.

May borrow money, hold and convey real estate, &c.

SECTION 6. The said corporation shall have power, and it is hereby authorized to borrow money and to make, execute and deliver therefor, its corporate bonds, under its corporate seal, payable on time and payable to bearer, and bearing interest not exceeding ten per cent. per annum, payable semi-annually in the city of New York, with interest coupons attached, and of the denomination of five hundred dollars each, and to an amount not exceeding one hundred thousand dollars, and to secure the payment of the same by a mortgage or deed of trust, conveying all its property, real and personal and mixed, and all its corporate rights, franchises and privileges, and to sell and dispose of said bonds in such manner and on such terms, and for such consideration, as its board of directors may, by their resolution in writing, authorize and direct.

First directors.

SECTION 7. The immediate government, direction and control of said corporation shall be and is hereby vested in seven directors. The first directors shall be and are the following named persons: Myron H. Hovey, James J. Hitchcock, William H. Davis, George B. Martin, Alexander W. Harvey, Lebbeus Chapman, jr., and Daniel Jackson, who shall hold their offices for for one year from the passage of this act, and until others are duly elected in their places, with power to fill

Vacancies.

vacancies which may occur by death, resignation or for any other cause, and four of their number shall constitute

Quorum.

a legal qurum [quorum] for the transaction of any corporate business; and at the expiration of said first year or as soon thereafter as practicable, all persons holding shares of this corporation may, upon some day to be specified by the board of directors, and at some place

Annual election of directors.

to be so specified, proceed to elect, on that day and place, and annually thereafter, seven directors, each shareholder to be entitled to one vote on each share he or she may own or hold *bona fide*, and may so vote in person or by lawful proxy; and said board of direcrectors is authorized to organize as such board and to hold their meetings and to transact any corporate business within or without this state; and said board of

directors shall appoint one of their number president of the said corporation, and shall appoint a secretary and treasurer, and shall have power to pay such compensation to their officers and agents as they may deem expedient, and to remove them at pleasure. In case there shall be a failure to elect directors on any days specified by the board of directors, the corporation shall not be deemed dissolved for that cause, but such election may be had on some other day, to be specified by said board of directors, within ninety days thereafter. A notice of at least thirty days shall be given by the board of directors of the time and place when each election of directors shall take place, by publishing the same in one or more newspapers printed in the cities of New York, Buffalo, Detroit, Chicago, Milwaukee and Madison.

President, secretary and treasurer.

Notice of election.

SECTION 8. The capital stock of this corporation is hereby declared to consist of four hundred equal shares of the par value of one hundred dollars each share, and its board of directors are hereby authorized to make, issue and deliver the same to the persons subscribing therefor. Whenever, in the opinion of its board of directors, an increase of the capital stock of this corporation is required, they shall give notice thereof to, and call a meeting of, the stockholders, in the same manner as is herein provided for the election of directors. The stockholders shall meet on the day named in said notice, and at such meeting they shall proceed to vote (in the same manner as if voting for directors) for or against the proposed increase. If, at said meeting, the holders and owners of two-thirds of the whole number of shares, shall vote for such increase, then and then only, shall said increase be made. Certificates of stock shall be made, issued and delivered for any increase of the capital of this corporation to such persons as may have subscribed for it, the option being first given to the existing stockholders *pro rata*.

Capital stock.

Increase of capital stock.

SECTION 9. The directors of this corporation are hereby empowered to make by-laws for their own government, and the same to alter, amend and repeal. Neither the power or authority conferred by this act, nor the liabilities imposed by it, shall be impaired or invalidated by being exercised or enforced without the limits of this state.

By-laws.

CHAPTER 63.

SECTION 10. In the opinion of the legislature, the objects of this act cannot be attained by a general law.

SECTION 11. This act shall take effect immediately after its passage.

Approved April 11, 1861.

CHAPTER 63.

AN ACT to incorporate the Port Washington singing association.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. Leopold Eghart, Charles Beger, John C. Schroeling, Louis F. Mueller, Robert Tetzold, Conrad Harneffer, Jacob Moritz, Ulrich Landolt, Robert Jaenicke, Jean Adam, Edward Neundorf, Franz Zimmerman, Hermann Vanderbosch, William Landolt, Paul Wolff, Theobold Rubly, Geo. Phil. Kuhn, G. Mockly, Jacob Werle, Gottfried Beutel, William Schroeder, Friedrich Schmidt, Peter Kuhn, Friedrich Mueller, Henry C. Harneffer, George Tetzold, Charles G. Meyer, Johann Neuens, Lebrecht Tetzold, Emil Frankenberg, Jos. Goldsmith, John R. Bohan, Louis Loeser, Robert F. Martini, Carl Menze, jr., Carl Rabe, Carl Mueller, Joseph Wersching, Peter Wolff, F. Wiffman, John B. Scheible, Wm. A. Pars, Edward Panzer, Gustav Goetze, Phillip Runkle, John Simon, Nicholas Johann, Thomas Hoyt, John Diedrich, Carl Menze, sen., Charles Bisch, D. Kemp, J. W. Vail, David Vail, who have united themselves into an association for the purpose of encouraging learning, and improving themselves in the art of singing, are hereby created a body politic and corporate, located in the town of Port Washington, Ozaukee county, and known by the name of "Port Washington singing association," or, in German, "Port Washington gesang verein."

Name.

Powers of corporation.

SECTION 2. The said corporation shall have power to contract and be contracted with, to sue and be sued, to plead and to be impleaded, to answer and to be answered unto, to defend and to be defended, in all courts of law in this state, and shall have perpetual succession

and be vested with all the powers and privileges necessary to carry out and fulfill the object of their association.

Further powers.

SECTION 3. Said association shall keep a common seal, and shall have power and authority to acquire, purchase, receive, possess, be seized with and enjoy property, real and personal, not exceeding in value the sum of ten thousand dollars, and the association may alter said common seal, and sell, rent, demise, convey or otherwise dispose of their real or personal estate at pleasure; also, to effect loans and borrow money for the use of the corporation, and to execute, sign, seal and deliver, through their proper officers, deeds, mortgages, notes, or other instruments in writing, as the case may require.

By-laws, &c.

SECTION 4. The said corporation shall have further power to establish for its government, a constitution and by-laws, not inconsistent with the constitution or laws of this state, and make such rules and regulations as may be deemed necessary to carry into effect the object of their association.

Trustees &c.

SECTION 5. The members of said association shall have power to assemble and meet at such times and places as may be agreed upon, and they shall elect any number of discreet persons of this association, not less than three nor more than nine in number, as trustees, to take charge of the real and personal property belonging thereto, and to transact all business relative to the investment and disposal thereof, and to elect such other officers or perform such other business as may be designated by the constitution and by-laws of the association.

Other officers.

SECTION 6. It shall be lawful for said association to elect and appoint such other officers as the condition and the circumstances of the corporation may require, to prescribe their powers and duties, and require bond and security for the faithful performance thereof, in such penal sum, and with such securities as they may choose, and also prescribe the term of their office: *provided, however*, that the trustees shall hold their office in conformity with the law, for at least one year, and until others are elected.

Proviso.

Property, and its descent.

SECTION 7. The property, real and personal, of said corporation, shall be solely devoted to the purposes and objects of said association, and all real and personal

CHAPTER 64.

estate which has been or may hereafter be lawfully conveyed by devise, gift, grant, purchase or otherwise to said association, or to any person or persons in trust for said association, shall descend with all improvements and appurtenances, in perpetual succession to, and to be held by the trustees in trust for said corporation.

SECTION 8. This act shall take effect from and after its passage.

Approved April 11, 1861.

CHAPTER 64.

AN ACT to incorporate the Lake Superior forwarding company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. That all such persons as shall become stockholders in the capital stock hereinafter mentioned, their successors and assigns, shall be and hereby are constituted and made a body politic and corporate, by

Style.

the name and style of "the Lake Superior forwarding company," and by that name shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever; may have a common seal and alter the same at pleasure, and by the same name shall be capable of purchasing, holding and conveying any estate, real or personal, for the use and benefit of said corporation.

Ca ital stock.

SECTION 2. The capital stock of said company shall not exceed two hundred and fifty thousand dollars, and shall be divided into shares of one hundred dollars each, and shall be deemed personal property, and may be transferred in such manner as the by-laws of the company may direct.

Powers of corpo ration.

SECTION 3. The said corporation shall have power to enter into and conduct a general transportation and forwarding business to and from such ports and places as the said corporation may see fit, and especially on the waters of Green Bay and of Lake Superior, and the

land intervening and between the same, and it may build, equip, furnish, purchase, charter or own steamboats or other vessels, and such personal property as it may find convenient to be used in its lawful business for the forwarding and transportation by land or water, of freight, mails, property and passengers, and for the docking and storing of lading, and for trade or commerce connected therewith; and in the lawful pursuit and conduct of the business aforesaid, said company may, in its corporate capacity and name, make and execute to and with any person or persons, body politic or corporate, any and all contracts, writings, obligations and vouchers whatsoever; and the said company shall by their corporate name be capable in law of purchasing, owning, holding, having, leasing and conveying real and personal estate and property whatever, necessary to enable the said company to carry on the business and operations aforesaid, and to build and own warehouses, piers, docks, offices, a dry-dock and a marine railway; and said company shall also have the power, and in their corporate capacity be capable in law of holding, owning, leasing and conveying real or personal estate or property whatsoever, which shall have been in good faith mortgaged or pledged to said company by way of security, or conveyed to said company in satisfaction or part satisfaction of any debt or debts previously contracted in the course of the transaction of the business of said company, and all other real or personal estate or property which shall be purchased by said company at sales upon judgments, orders or decrees, which shall be obtained for such debts or in the course of the prosecution of its business.

Steamboats, &c.

Contracts, &c.

Real and personal property.

Piers, beacons, &c.

SECTION 4. Said corporation is empowered and authorized to establish, control and maintain such landing piers, beacons, buoys, signals or signal lights in the waters of, or on the shores near Green Bay, as it may deem advisable to aid in the safe and rapid navigation of the waters of Green Bay, or the bays or rivers connected therewith, and for communicating with or between the places or points along the shores thereof, and the same shall be protected by law as the property of said company against any unauthorized or malicicious interference therewith: *provided*, that whenever the beacons or signals are placed on the shore on land owned by private parties or individuals, the

Proviso.

CHAPTER 64.

written permission of the owner or owners thereof, if residents of this state, shall have been previously obtained.

Board of directors.

SECTION 5. The property and affairs of said company shall be managed and conducted by a board of not less than three nor more than seven directors, who shall be elected annually, and who shall respectively be stockholders in said corporation, and who shall be elected as aforesaid by the stockholders, at such time and place as shall be directed by the by-laws of the company, each share of stock being entitled to one vote, and may be cast by the stockholder or proxy duly authorized. All such elections shall be by ballot, and the persons receiving the majority of votes shall be directors, and when any vacancy shall happen for any cause, it shall be filled for the remainder of the year in such manner as provided by the by-laws.

President.

SECTION 6. The said directors shall annually after the election, elect of one of their number president, whose duty it shall be to preside at the meetings of the board, and in case of his absence at any meeting, the directors present may elect a president *pro tem.* The directors shall have power to make and prescribe such by-laws, rules and regulations respecting the management of the property, concerns, business and stock of such corporation as they may deem expedient and proper, not inconsistent with the laws of this state or the United States. All meetings for the transaction of business for the corporation, shall be held at such office as the by-laws may designate, and the manner and times of calling meetings shall be prescribed in the by-laws of said company. The directors shall have power to appoint a treasurer, secretary and such other officers, agents or servants as may be required in the business of said company, and may remove the same at pleasure, and fix the compensation and define the duties of all said officers, agents or servants. The directors shall have power to decide the time, manner and proportions in which the stockholders shall pay the money due, or an equivalent therefor, on their respective shares; to forfeit to the use of said company the share or shares of any person failing to pay any installment so required at a reasonable period, not less than thirty days after the period appointed for the payment thereof. They shall also have power to

Meetings.

Other officers.

Forfeiture of stock.

appoint a time certain each year for the election of directors, but such election shall always be held at the office of said company, upon notice to the stockholders, published in some newspaper in the city of Milwaukee, of not less than thirty days before such election: *provided*, that if, for any cause, the election shall not be held at the time appointed, the same may be held at any time upon like notice, and the directors of the preceding year shall, in all cases, continue to act until the election of their successors in office; *and provided, further*, that the first election of directors may be held at the office of one of the inspectors hereinafter named, where the books for subscription to the stock are open, upon notice to the subscribers to stock of one week, to be published daily in two newspapers in the city of Milwaukee. A majority of the persons hereinafter authorized to receive subscriptions to the capital stock of said company shall act as inspectors of the first election of directors.

Election of directors.

Provisos.

SECTION 7. Books for subscription to the capital stock of said company shall be opened at the office of George D. Dousman, in the city of Milwaukee, on the second Monday of April, A. D. 1861, under the inspection of G. D. Dousman, H. Courtney and E. Mariner, a majority of whom may keep said books open from day to day until at least fifty thousand dollars of said stock be subscribed for, when the said G. D. Dousman, H. Courtney and E. Mariner may deliver to the subscribers the said books; and the said subscribers shall then proceed to elect the board of directors as hereinbefore provided for, and such directors when elected shall, at their first meeting, determine the amount of capital of said corporation, which shall in no case exceed two hundred and fifty thousand dollars, and if such capital shall be fixed at any sum less than two hundred and fifty thousand dollars, the same may at any time thereafter be increased by a vote of two-thirds of all the directors, at a regular meeting thereof, to any amount not exceeding two hundred and fifty thousand dollars.

Opening of books of subscription, &c.

SECTION 8. This act shall take effect and be in force from and after its passage.

Approved April 11, 1861.

CHAPTER 65.

CHAPTER 65.

AN ACT to amend an act entitled "an act to incorporate the Green Bay, Depere and Madison railroad company," approved March 17th, 1853.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Sec. 1 amended.

SECTION 1. Section 1 of the act to incorporate the Green Bay, Depere and Madison railroad company, is hereby amended by striking out in the last line of said section the words, "and also in one printed in the county of Dane."

Validity of election of directors.

SECTION 2. Any election of directors of said company that may have been heretofore held and conducted without a notice thereof being published in a newspaper printed in Dane county, as provided in the first section of the act of which this is amendatory, shall not be deemed invalid on account of such omission.

Track, bridge, &c.

SECTION 3. The said company shall have power to locate and construct a single or double track railway on either side of Fox river: *provided*, the northern terminus thereof shall be within the limits of the city of Green Bay; and the said company is hereby authorized and empowered to construct a bridge across said Fox river for the use of said road, at any time when the interests or business of said road shall require the same: *provided*, said bridge shall be constructed with a draw at least sixty feet in width, which draw shall be open, free of charge, to all boats and vessels and other sailing craft navigating said river; and anything in the 9th section of the act of which this act is amendatory, relating to the terminus and route of said road, conflicting with this act, is hereby repealed.

Repeal.

May consolidate, &c.

SECTION 4. It shall be lawful for the directors of said company to consolidate with, convey, assign or lease to any other railroad company north of the city of Oshkosh, in such manner and on such terms as said directors shall approve; and in case of conveyance or sale, the company purchasing shall be bound by all the requirements and entitled to all the privileges and benefits of this charter.

Reduction of subscriptions.

SECTION 5. The mayor of the city of Green Bay, in the name and behalf of said city, is authorized to reduce the present existing subscription of said city to

the capital stock of said company, as made under the provisions of an act approved March 14, 1859, entitled "an act to authorize the city of Green Bay to provide for the construction of roads in Brown county;" and it shall also be lawful for all stockholders of said company to reduce their subscriptions to said capital stock to such amounts and in such manner as shall be decided upon by the board of directors.

SECTION 6. This act shall take effect and be in force from and after its passage.

Approved April 11, 1861.

CHAPTER 66.

AN ACT to incorporate the Union hall company.

The People of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

SECTION 1. George C. Smith, T. C. Blanchard, Wm. Eustis, Wm. Smith, A. A. Rainreg, Levi Francisco, Gideon Ives, John Gates, E. A. Champney, Charles Spooner, O. P. Hart, E. A. Hart, W. W. Bowers, Geo. W. Champney, Moses Powers, Levi A. Colby, Hezekiah Porter, Jerome L. Ward, John Hudson, Oney Hudson, Edward Silverthorn, Geo. Silverthorn, Hiram Ward, H. A. Perry, James Marble, A. B. Warne, William Ward, Geo. Wilson, Charles Goodrich, Holmes Ives, L. M. Roberts, Edward Morton, Francis Millard, E. G. Snell, Leonard Potter, G. Vanhoosen, D. Lamphear, A. C. Porter and Elijah Francisco, and all such persons as shall hereafter become associated with them by subscription to the capital stock of the company created by this act, their successors and assigns, are hereby created a body corporate and politic, by the name and title of "the Union hall company," by which name said company shall ever be known. It shall be capable in law and equity of suing and being sued, pleading and being impleaded, answering and being answered, defending and being defended against, in all courts and places, and in all manner of actions and cases whatever; it may have and use a common seal, and may alter the same at pleas-

Corporators.

Name.

CHAPTER 66.

ure, and it may purchase, hold and convey estate real, personal and mixed, for the use and benefit of said company.

Capital stock.

SECTION 2. The capital stock of said company shall not exceed one thousand five hundred dollars, and shall be divided into shares of five dollars each. It shall be deemed personal property, and may be transferred in such manner as the by-laws of the company may prescribe.

Business.

SECTION 3. The business of said company shall be the building or purchasing, completing and owning a structure or building for the purpose of renting or using for public or private purposes, or the manufacture and sale of articles of use to the inhabitants of the surrounding country. Such structure or building shall be located in the town of Oakland, in the county of Jefferson, where all that pertains to the business of the said company shall be transacted and carried on: *provided*, that no spirituous, malt or intoxicating liquors shall ever be manufactured, sold or stored in said building, under a penalty of twenty-five dollars for each offense.

Proviso.

oard of trustees.

SECTION 4. The business of said company shall be managed and conducted by a board of three trustees, all of whom shall be stockholders, and a majority of whom shall constitute a quorum for the transaction of business, and who shall be elected by the stockholders at the annual meeting, which shall be held on the fourth Monday in April of each year, at such hour as the by-laws may prescribe, and the first meeting shall be at 2 o'clock, p. m., at the building now known as Union hall in said town. It shall be the duty of the trustees to give notice of the time and place of all succeeding annual meetings by posting three notices in the most public places in said town, at least ten days previous to said fourth Monday in April of each year. At such meeting each stockholder, in person or by written proxy, agreeably to the by-laws of said company, shall be entitled on all questions to cast one vote for each share owned by him, and paid in full. In case of failure to notice or hold the annual election, the old board of trustees shall continue to act until their successors are duly elected, and a majority of the stockholders may call a special meeting as the by-laws may prescribe, with the same right to transact business as the regular

First meeting.

Special meeting.

annual meeting. In case of the death or resignation of either of the trustees, the other two members may fill such vacancy until the meeting of the stockholders, whether special or annual, when they may fill such vacancy, and such stockholders may make such by-laws, not inconsistent with the provisions of this act, as they may deem proper to carry out the objects herein contemplated.

Vacancies.

SECTION 5. Books of subscription to the capital stock of said company may be opened on the said second Monday in April, at the time of the first meeting of the stockholders, and subscriptions received from such persons and in such manner and subject to such payments as may be prescribed by the board of trustees.

Books of subscription.

SECTION 6. William Eustis, E. G. Snell and Geo. W. Champney, the present trustees of a copartnership now existing and owning real estate in said town of Oakland, are hereby authorized and empowered to convey and transfer said real estate, and also all the personal estate of said copartners, (who are named in the first section of this act,) to the trustees of the stockholders who shall be elected under the provisions of this act, or the company to be organized under it; and the said trustees of said copartners may receive in payment therefor certificates of stock heretofore issued by them, and such transfer shall have the same effect as if conveyed by deed of warrantee executed by said copartners: *provided*, that before such transfer shall be made the said copartners, or a majority of them, shall assent to such transfer in writing, to be attached to such transfer when made.

Conveyance of real estate.

Proviso.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved April 13, 1861.

CHAPTER 67.

AN ACT for the preservation of fish in North lake, Waukesha county.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Taking with spear prohibited

SECTION 1. It shall not be lawful to take or kill, and every person is hereby prohibited from taking and killing, with a spear, any fish in North lake, Waukesha county, or in any stream running into or out of said lake, within eighty rods of the same.

Penalty.

SECTION 2. Any person violating any of the provisions of section one of this act, shall be subject to pay a fine of five dollars, to be sued for and collected in the name of the state of Wisconsin, before any justice of the peace in said county, and when collected shall be paid into the state treasury for the use of the school fund.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 68.

AN ACT for the relief of Soren Peterson, and to repeal chapter 72 of the private and local laws of 1860, entitled "an act for the relief of Loren [Soren] Peterson."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Appropriation.

SECTION 1. The sum of twenty-four dollars and fifty-eight cents is hereby appropriated to Soren Peterson, from the school fund, being in full payment for excess and [of] principal and interest upon the purchase money of lots 7 and 8, of section 16, of township 27 north and range 26 east, in the county of Door, paid by said Peterson into the state treasury, and being also in full payment of all charges of and expenses incurred by said Peterson in surveying said lots, by the direction of the commissioners of the school and university lands.

SECTION 2. All forfeitures and penalties heretofore incurred by reason of the non-payment of any interest upon said lots 7 and 8, and all sales of the same, made in consequence of any such non-payment of interest, are hereby set aside, canceled and vacated; and the commissioners of school and university lands are hereby authorized to cancel all certificates of sale issued by them for said lots 7 and 8, and to issue to said Peterson, upon application by him therefor, new certificates of sale of said lots, and no penalties shall be included in such amount or charged in said lots; and so much of the said sum of twenty-four dollars and fifty-eight cents, mentioned in the first section of this act, as may be necessary to pay all interest now remaining due and unpaid upon said lots by said Peterson, may be retained and applied for that purpose by the state treasurer: *provided*, that said treasurer shall furnish the said Peterson, upon application therefor, with the proper receipts of the payment of such interests.

Forfeitures set aside.

Certificates of sale canceled.

Treasurer to retain.

SECTION 3. Chapter 72 of the private and local laws of 1860, entitled "an act for the relief of Loren [Soren] Peterson," is hereby repealed.

Repeal.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 69.

AN ACT to authorize Henry W. Stillman to build and maintain a dam across the Milwaukee river.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Henry W. Stillman, his successors, heirs and assigns, are hereby authorized to build and maintain a mill dam across the Milwaukee river, on the south half of section three, (3,) town eleven, (11,) range twenty-one (21) east of the fourth principal meridian; also, to erect mills and machinery, or in any manner use the water for hydraulic purposes: *provided*,

Authority.

Proviso.

CHAPS. 70-71.

that the erection of the dam shall not flow the lands of others than the said Stillman, unless such others shall consent or have consented thereto.

SECTION 2. This act shall take effect from and after its passage.

Approved April 13, 1861.

CHAPTER 70.

AN ACT to legalize the proceedings of the Richland county agricultural society.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Society to receive $100.

SECTION 1. The Richland county agricultural society shall be entitled to and shall receive one hundred dollars for the year 1860, notwithstanding any informalities as to the time and manner in making its report, and the proper officers are hereby directed to audit and pay the same to said society.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 71.

AN ACT to amend chap. [chapter] 206, private laws 1859, ent. [entitled] "an act to authorize Wm. Knapp to keep and maintain a ferry across the Wis. [Wisconsin] river."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority.

SECTION 1. Sec. one of chapter 206 of the private laws of 1859, entitled "an act to authorize William Knapp to keep and maintain a ferry across the Wisconsin river," is hereby amended by striking out all after the word Richland, and inserting the following: "For two miles above and below some point on the southeast quarter of section thirty-one, town nine, north range

one east, in Richland county, and some point on section six, town eight, north range one east, in Iowa county;" also by substituting the name of Bronson J. Bangum in place of William Knapp where it occurs in said section one.

Approved April 13, 1861.

CHAPTER 72.

AN ACT to incorporate the "Concordia" society of Menasha.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. Adolph Pheifer, Julius Fierweger and Frederick Stridde, their associates and successors, are hereby created a body corporate and politic, for educational and charitable purposes, in perpetual succession, under the name and title of "the Concordia" of Menasha, with full power to sue and be sued, plead and be impleaded, hold and convey property, real and personal, have and use a common seal, and alter and renew the same at pleasure, and to adopt such by-laws, rules and regulations, not inconsistent with the constitution and laws of the United States and the state of Wisconsin, as the members of said "Concordia" may deem necessary for the government of said society.

Title and powers.

Board of directors.

SECTION 2. The affairs of said "Concordia" shall be managed by a board of not less than three nor more than ten directors, who shall be chosen by ballot semi-annually, on the first Monday in June and December in each year, by the members of said "Concordia," and a majority of said board shall constitute a quorum for doing business.

Real estate.

SECTION 3. The Concordia may hold or convey real estate to an amount not exceeding ten thousand dollars.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved April 13, 1861.

CHAPTER 73.

CHAPTER 73.

AN ACT to amend an act entitled "an act to authorize Jefferson Lower and his associates to build and maintain a toll bridge over the La Plume slough or chute, in the county of La Crosse," approved March 31, 1856.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Authority.

SECTION 1. The first section of the act of which this is amendatory, is hereby amended so as to read as follows: "Jefferson Lower, William Brewster, T. J. L. Tyler, T. B. Stoddard, their associates and assigns, or the associates of a majority of them, shall have power to build and maintain a trussel bridge across La Plume chute, in the county of La Crosse, at any point opposite Isle La Plume where any street has its outlet on said chute in section six or seven, in township No. fifteen, (15,) N. of range No. four (4) west, and within the limits of the city of La Crosse."

Width, &c.

SECTION 2. Section 2 of said act is hereby amended so as to read as follows: "Said bridge shall be not less than sixteen feet wide, and shall have a span of not less than thirty-five feet, (at or near the middle,) between the bents, for the free passage of cribs or rafts of timber or lumber."

Sec. 3 amended.

SECTION 3. Section three of said act is hereby amended by striking out of the first and second lines of the same, the following words: "The said Jefferson Lower, his associates and assigns," and by inserting in lieu thereof the following words: "The said Jefferson Lower, William Brewster, T. J. L. Tyler and T. B. Stoddard, their associates and assigns, or the associates of a majority of them."

Sec. 9 amended.

SECTION 4. Section nine of said act is hereby amended by striking out the words "one year," occurring in the seventh line of said section, and by inserting in lieu thereof the words "twenty-four months."

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1861.

CHAPTER 74.

AN ACT to incorporate the Chilton and Manitowoc plankroad company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. C. L. Blakesley, M. A. Baldwin, J. C. Hitchcock, T. W. Call, H. P. Graves, Leroy Graves and —— and such other persons as shall associate with them and become stockholders, pursuant to the provisions of this act, shall be and are hereby created and made a body corporate and politic in fact, and known by the name and style of the "Chilton and Manitowoc plank-road company," with perpetual succession, and by that name shall have all the privileges, franchises and immunities incidental to a corporation, to wit: they shall be capable in law of purchasing and conveying estate, either real, personal or mixed, and in their corporate name may have and use a common seal which they may alter at pleasure, and generally may do all and singular the matters and things which they are authorized by law to do for the interest and well being of said company.

Style and powers

Opening of books of subscription.

SECTION 2. The persons named in the first section of this act, or a majority of them, shall be commissioners to open books and receive subscriptions to the capital stock of said company, at such times and places as they may deem expedient; and whenever the amount of two thousand dollars of such capital stock shall be subscribed for and distributed, and five per cent. paid thereon, said commissioners shall call a meeting of the stockholders of said company, by giving at least twenty days' notice thereof in one or more newspapers published in the county of Calumet, for the purpose of electing seven directors of said company, who shall immediately proceed to elect one of their number president; and annually thereafter the said stockholders shall meet on the second Monday in April, for the purpose of electing directors, as aforesaid, on a like notice to be given by the president and secretary in some newspaper, as they may deem proper: *provided*, that if from any cause an election shall not be held at any other time on notice as aforesaid, and that until such election, the directors of the preceding year

Election of directors and president.

Annual meeting.

Proviso.

CHAPTER 74.

shall continue to act, and that this charter shall not be avoided by reason of any irregularity in or want of such election, and in case of a vacancy in the board of directors, the same may be filled by appointment of the majority of the board, until the next annual election thereafter.

Board of directors—power, &c.

SECTION 3. The business of said company shall be managed by a board of seven directors, who shall be stockholders. The directors shall be chosen annually by ballot, by the stockholders of said company, and shall serve until others are elected in their stead. The vote may be given in person or by proxy duly authorized. The directors shall make such by-laws, rules and regulations not inconsistent with the constitution and laws of this state, as may be necessary for the well ordering of the affairs of said company, and a majority of said directors shall form a quorum for the transaction of business for the company. In the absence of the president of the board of directors, the board

Other officers.

may appoint a president *pro tem.* The board shall also appoint a secretary, treasurer, engineers and such other officers as they may deem necessary, and fix their compensation, and may demand adequate security for the performance of their respective duties; they shall have full power to decide the time and manner in which said stockholders shall pay the money or labor due on their respective shares, not exceeding twenty-five per cent. at any one installment, and to forfeit to the use of the said company the share or shares of every person failing to pay any installment at a reasonable period. not less than thirty days, after the time appointed for

Powers of commissioners.

the payment thereof. The commissioners, until the directors are chosen, shall do and perform all and singular the duties and trusts imposed by this act upon the directors of said company. They shall appoint a chairman, secretary and treasurer, the chairman to be one of their own number, and until the directors are appointed according to the provisions herein contained, they shall in fact constitute a board of directors for the company, with like powers as are herein conferred upon the said board of directors. The said commissioners shall issue certificates to the stockholders for the number of shares such stockholders may have subscribed for or may hold in said company, the certificates to be signed by the secretary and counter-

signed by the chairman, and to be subject to all the payments due and to become due thereon, which stock shall be transferable in such manner as shall be prescribed by the by-laws of said company.

Capital stock.

SECTION 4. The capital stock of said company shall be two hundred thousand dollars, and shall be divided into shares of twenty-five dollars each. Each stockholder shall be entitled to one vote for each and every share of stock he or she may hold, and any person may subscribe to pay his or her shares in labor or materials upon said road, under the supervision and direction of the board of directors: *provided, always,* that five per cent. in cash be paid on making such subscription to the stock of said company.

Proviso.

Powers of company.

SECTION 5. The said company shall have power to construct a plankroad or a road partly of plank and partly of gravel, or other good and substantial material, from Calumet, in the county of Fond du Lac, by the way of and through the village of Chilton and Gravesville, in the county of Calumet, to Manitowoc, in the county of Manitowoc, as the directors may determine, the route of said road to be determined by the directors of the company, when elected and duly organized: *provided, always,* that the points of said road herein established, shall in no case be changed by said directors; and the said directors shall have power to construct said road along and upon any highway now or hereafter laid out, or to be laid out and established by the proper authorities, and of such width as the directors shall determine; but the surface or arch of said road shall in all places be of sufficient width for two teams to pass conveniently, though it shall be at the option of the directors, wherever the said road shall (*shall*) be constructed of plank, to lay down one or two tracks, as they may deem best for the interests of the company.

May enter upon lands, &c.

SECTION 6. It shall be lawful for said company, their officers, engineers and agents, to enter upon any lands for the purpose of exploring, surveying and locating the route of said road, doing thereto no unnecessary damage; and when the said route shall be determined or fixed by the company, it shall be lawful for them, their officers, agents, engineers, contractors and servants, at any time to enter upon and take possession of and use such lands, to the width of four

CHAPTER 74.

rods, and also to take from any lands adjoining said road, gravel, stone or earth, for the purpose of constructing or repairing said road, subject, however, to such compensation as the company have agreed to pay therefor, or shall be ascertained in the manner hereinafter directed and provided.

Compensation.

Parties may appoint appraisers.

SECTION 7. Whenever it shall be necessary to enter upon and occupy for the purpose of constructing said road, any land upon which the same may be located, or to take from such land or the land adjoining said road, any gravel, stone or earth, for the purposes of said road, and the owner or owners of the same shall refuse to permit such entry or occupation or taking, and the parties cannot agree upon the compensation to be made for the injury to be done to such land by such entry, occupation or taking, it shall and may be lawful for the parties to appoint three disinterested persons to estimate such damage, who shall be sworn fairly and impartially to estimate the same, and who shall reside in the county where the land lies. The expenses of such appraisal shall be paid by the company; but if the parties cannot agree upon such persons, or if the persons chosen cannot decide upon the matter, or if the owner of the land refuses or neglects to join in such appointment within twenty days after notice for that purpose on him made, or if the owner shall be under a legal disability or out of the state, then, and in either of such cases, it shall be lawful for the judge of the circuit court of the county in which such lands lie, upon application of either party, and at the costs and charges of the company, to appoint, and he shall appoint, three disinterested persons of the same county, to view the lands and estimate the damage or injury which will be sustained by reason of the entry or occupation or taking, as aforesaid: *provided*, that notice be given in some newspaper published in the county, at least ten days before said view and estimate be made. The said appraisers shall, as early as practicable, report under oath to the circuit court of the county the amount of damages sustained by any party, by reason of such entry as aforesaid, which report being confirmed by the court, judgment shall be rendered therefor. The said appraisers shall be paid each two dollars per day for their services, by the company, in all cases when the damages exceed

If parties cannot agree, &c., court may appoint.

Notice to be published.

Report of appraisers.

the amount offered by said company previous to the appraisal, and to be paid by the other party when the sum awarded does not exceed the sum offered for damages by the company. The appraisers shall, in all cases, take into the account in awarding damages, the benefits accruing to the person claiming damages in consequence of the building of said road. Upon the payment to the owners of said lands of the sum specified in the report of said appraisers, or upon depositing said sum with the clerk of the circuit court of the county where said lands are situated, for the benefit of said owners, the company may immediately enter upon, occupy or take from said lands as hereinbefore provided.

Compensation—by whom paid.

SECTION 8. The said company may erect toll gates and demand and receive toll from all persons traveling on the said road, whenever three consecutive miles are finished, or when the whole road is finished. The tolls on said road shall not exceed the following rates per mile, to wit: For every vehicle, sled, sleigh or carriage drawn by one or two animals, two cents, and if drawn by more than two animals, one cent per mile for each additional animal; for every horse and rider or led animal, one cent per mile; for every score of neat cattle, four cents per mile; for every score of sheep, two cents per mile, and for every score of swine, two cents per mile.

May erect toll gates.

Rates of toll.

SECTION 9. Each toll gatherer may detain and prevent from passing any gate on said road, all persons riding, leading or driving animals or carriages subject to tolls until they shall have paid respectively, as authorized by this act; and any person who shall forcibly or fraudulently pass any toll gate erected on said road, pursuant to this act, without having paid the legal toll, and any person who, to avoid the payment of legal toll, shall, with his carriage or horse or other vehicle or animal or animals liable to toll, turn out of such road or pass any gate thereon or land adjacent thereto, and enter again upon said road, shall, for each offense, be liable to a fine not to exceed ten dollars, to be recovered in any court having jurisdiction thereof.

Penalty for passing gate without paying toll.

SECTION 10. If any person shall willfully and maliciously obstruct, break, injury or destroy said road or any part thereof, or any work, building or fixture attached to or in use upon the same belonging to said company, such persons so offending shall, for each

Penalty for injury to road.

CHAPTER 75. offense, be liable for the recovery of damages by the company, and shall also be subject to indictment, and upon conviction, shall be punished by fine and imprisonment or either, at the discretion of the court.

SECTION 11. This act shall be favorably construed to effect the purposes hereby intended, and the same is hereby declared to be a public act.

Approved April 15, 1861.

CHAPTER 75.

AN ACT to incorporate the Kewaunee and Green Bay plankroad company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporators.

SECTION 1. C. H. Cunningham, J. R. Slauson, L. Hammond, B. D. Hills, Wm. D. Hitchcock, L. P. Congdon, Edward Decker and Michael Hrendt, are hereby appointed commissioners, under the direction of a majority of whom subscriptions may be received to the capital stock of the Kewaunee and Green Bay plankroad company, hereby incorporated, and they

May open books of subscription.

may cause books to be opened at such times and places as they shall direct, for the purpose of receiving subscriptions to the capital stock of said company, first giving thirty days' notice of the times and places of receiving such subscriptions, by publishing the same in one or more newspapers printed in Kewaunee county.

Capital stock.

SECTION 2. The capital stock of said company shall be seventy-five thousand dollars, in shares of twenty-five dollars each, and as soon as one hundred shares of the capital stock shall be subscribed and five per cent. of the amount thereon actually paid in or secured to the said company, the subscribers of said stock, with such other persons as they shall thereafter associate with them for that purpose, their successors and assigns, shall be and they are hereby created and declared a

Style and powers.

body corporate and politic, by the name and style of the Kewaunee and Green Bay plankroad company, with perpetual succession, and by that name shall be

capable of purchasing, holding, selling, bargaining and conveying estate, real, personal and mixed; in their corporate name may sue and be sued, may have a common seal, which they may alter or renew at pleasure, and generally may do all and singular the matters and things which an incorporated company may by law do.

Election of directors.

SECTION 3. The said commissioners, or a majority them, after said one hundred shares of stock shall have been subscribed as aforesaid, shall give at least twenty days' notice in one newspaper of said county of Kewaunee, of the time and place of the meeting of the stockholders for the electing of five directors, who shall hold their office until their successors are elected; and annually thereafter, upon the anniversary of the first election, upon notice of the place of meeting being given by the directors then in being, being published in one newspaper published in the county of Kewaunee, to be designated by said directors, the said stockholders shall meet to elect directors: *provided*, that until the first election of directors the said commissioners above named, upon the subscription of one hundred shares of stock and the organizing of said commissioners, by the election by them of one of their number president, shall have all the powers and perform all the duties of a board of directors for said company, and the corporate existence of said company shall be taken to have begun and be complete as if a regular election of directors had taken place; and in case of a vacancy at any time happening in the board of directors, or the said board of commissioners acting in the capacity of directors, the board shall have power to fill such vacancy.

Powers of commissioners.

Management.

SECTION 4. The affairs of said company shall be managed by the said directors, who shall be stockholders, and be chosen by ballot by the stockholders in person or by proxies duly authorized; and in all elections and in the discussion of all questions acted upon at any meeting of the stockholders, each share of stock shall be entitled to one vote, and the majority of votes cast shall govern, except in elections, when the five persons having the greatest number of votes cast for directors shall be declared elected.

CHAPTER 75.

Quorum and officers.

SECTION 5. A majority of said directors shall form a quorum for the transaction of all business, and shall organize by choosing one of their number president; and they shall have power to appoint a secretary and treasurer, and such other officers or agents as they may deem fit, and may fix their compensation, and may demand adequate security for the performance of their respective trusts, and may remove said officers and revoke the power of such agents at pleasure.

Further powers.

They shall also have power to make all necessary and proper by-laws, rules and regulations for the management of said company, the subscription of stock, the payments of installments thereon, the assignment and transfer of stock certificates, and prescribing the duties of officers; all of which by-laws, not inconsistent with the constitution and laws of this state, when duly recorded in the books of the company, shall be effectual and binding upon the members of said company, and all persons interested therein, as if the same formed a part of this act of incorporation.

Installments.

SECTION 6. The said board of directors shall also have power to decide the time and manner in which said stockholders shall pay installments upon their stock, and to declare the forfeiture of said stock, and all pay or payments thereon or failure to pay such installments as may be called for, and also to adopt, in behalf of the company, a relinquishment of any stock subscribed, and to execute to the person or persons relinquishing the same, valid releases, discharging them from all liabilities thereafter for or on account of the acts of said company or its officers.

Tolls, certificates &c.

SECTION 7. The said directors shall have power to regulate tolls, and make such covenants and contracts in the name and under the seal of said company, with any person or persons, as the execution and management of the work and the convenience and interest of the company may require, and may issue to each stockholder a certificate or certificates of the amount paid on such share at the time of issuing such certificate or certificates, which certificate or certificates shall be signed by the president and countersigned by the secretary of said company, and such certificate or certificates shall be transferable in the manner prescribed by the by-laws of said company.

SECTION 8. The said company shall have power to locate and construct a single or double track road from the village of Kewaunee, in Kewaunee county, to Green Bay, in Brown county, by the most eligible and practicable route, as the directors shall decide. The track of said road shall be constructed of plank, stone, gravel, charcoal or either, in whole or in part, each at the option of the directors, so that the same, when completed, shall constitute a firm, regular and proper surface for the passage of wagons and carriages. Location of road.

SECTION 9. It shall be lawful for said company, their officers, engineers or agents, to enter upon any lands for the purpose of surveying and locating the route of said plankroad, doing thereto no damage unnecessarily; and when said route shall be determined by the said company, it shall be lawful for them, their agents, officers, engineers, contractors and servants, at any time to enter upon, take possession of and use such lands, not exceeding four rods in width along the line of said route, subject, however, to the payment of such compensation as the company may have agreed to pay therefor, or as will be ascertained in the manner hereinafter directed: *provided*, that in such cases as may be necessary for the company to obtain gravel or stone, or to make excavations and embankments for the construction of said road, the company may locate the route of said road not to exceed six rods in width, and they may also cut down such trees on each side of said road as may endanger said road by falling, or otherwise. May enter on any lands, &c. Width. Proviso.

SECTION 10. When the corporation shall not agree with the owner or owners of any land, gravel, stone or other material required for the construction of said road for the purpose thereof, or for the compensation to be paid therefor, or when by reason of the absence or legal incapacity of the owner or owners, no such agreement or purchase can be made, then, and in any such case, it shall be lawful for any justice of the peace to issue a warrant directed to the sheriff or any constable of said county, not directly interested, requiring him to summon a jury of nine freeholders of said county, not interested in said property, to meet the said justice at some convenient place at or near the property to be valued, on a day in said warrant mentioned, not less than five nor more than ten days from Damages may be determined by jury, if parties cannot agree.

CHAPTER 75. the date of said warrant; and if, at the time and place named, any of the persons so summoned do not attend, the said sheriff or constable shall immediately summon as many as may be necessary, with the persons in attendance as jurors, to furnish a panel of nine jurors, and from them the said company or the owner or owners of said property to be valued, by their agent or attorney, or either of them, and if they are not present in person or by attorney, the sheriff or constable shall, for him, her or them, strike off each two of said jurors, and the remaining five shall act as a jury of inquest of damages. Before they act as such, the said justice of the peace shall administer to each of them an oath or affirmation that they will faithfully and impartially value the land and material required for such road, and all damages which the owner or owners shall sustain by reason of the construction of said road, according to the best of their skill and judgment; whereupon the said justice and jurors shall proceed to view the said land or material so required, and to hear the evidence of the respective parties, which the said justice shall reduce to writing, which shall be signed by the said justice; and the verdict of the jurors thereon shall be signed by the jurors, or a majority of them, and by the justice of the peace; and the said justice of the peace shall, within five days thereafter, transmit the same to the clerk of the district [circuit] court of the proper county, who shall file the same. Such inquisition shall describe the property taken or to be taken, or the boundaries of the land in question, and the value thereof, as aforesaid; and such valuation, when paid, together with the cost of such inquisition, or tendered to the owner or owners, or deposition [deposited] with the said court, shall entitle the said company to the estate and interest in the same thus valued, as if it had been conveyed by the owner or owners thereof, so long as the land thus valued and taken shall be used for the track of said plankroad: *provided*, that it shall not be lawful for any justice or jury of inquest to proceed in the valuation of any such property or material in the absence of the owner or owners thereof, or of his, her or their legal representatives, unless it be made to appear by affidavit that such owner or owners have had at least five days' notice of the time and place of meeting for the purpose of making such valuation, or unless it

Proviso.

shall in like manner be shown that such owner or owners are under age or *non compos mentis*. Such service may be made upon the guardian or trustee, under the same restrictions as in case of owners; or, if there be no guardian or trustee, the same shall be established by affidavit: *provided*, that no such material shall be taken if the jury shall decide that the same is essential to the owner or owners thereof.

Powers of directors.

SECTION 11. The directors shall have power, in their discretion, to construct said plankroad along and upon any road or highway now or hereafter to be laid out, opened and established by the proper authorities, and of such width and in such manner as the directors shall determine: *provided*, that such authority shall first proceed from the supervisors of the town in which such public highway may be situated; and they may erect toll gates and exact toll from persons traveling on their road whenever three consecutives miles are finished or when the whole road is completed, not exceeding three cents per mile for every vehicle, sled, sleigh or carriage drawn by two animals, and if drawn by more than two animals, one cent per mile for every additional animal; for every sled, sleigh or carriage drawn by one animal, two cents per mile; and for every horse and rider or led animal, one cent per mile; for every score of sheep and swine, one cent per mile, and for every score of neat cattle, four cents per mile: *provided*, that persons going to and from military parade, which they are required by law to attend, and persons going to and returning from funerals, shall be exempt from tolls. The toll gatherer at each gate erected on said road in pursuance of this act, may detain and prevent from passing such gate, any animal or carriage subject to toll until the toll thereon is paid.

Proviso.

May receive real or personal security in payment of stock.

SECTION 12. The said directors may receive from any stockholder in said company, in lieu of money for the stock subscribed by him, real or personal property, to be approved by said board of directors, and upon the acceptance of such security from said stockholders, or any of them, the subscription of such stockholder shall be considered as paid, and certificates of stock shall be issued to said stockholders in the same manner as if they had paid in the full amount of their subscription in money; and it shall be competent for the said stockholders paying their subscription to said

CHAPTER 75.

stock in securities as aforesaid, to contract and to pay to said company interest at the rate of twelve per centum, for a period not exceeding ten years, and to execute to said company, by its corporate name, bonds, mortgages or notes of such stock, which shall be available for the use and benefit of said company, and for all subsequent holders thereof, and transferable by them in the same manner as if the same were made payable to individuals or to their order or assignee.

Willful damage to road—punishment.

SECTION 13. If any person shall willfully or knowingly obstruct, break or destroy the said road to be constructed by said company, or any part thereof, or any work, buildings or fixtures attached to or in use upon the same, belonging to said company, such person or persons so offending shall, each of them, for every such offense, be liable to a civil action for the recovery of damages by said company, by action in any court having competent jurisdiction in the county wherein the offense shall have been committed, and shall also be subject to indictment, and upon conviction, shall be punished by fine and imprisonment, or either, at the discretion of the court.

Willful injury to gate, &c.—punishment.

SECTION 14. Any person who shall willfully throw down any gate on such road which may have been erected in pursuance of this act, or do any damage to said road, or forcibly or fraudulently pass such gate without having paid the legal toll, or to avoid the payment of the legal toll, shall, with his team, carriage or animal, turn out of said road or pass any gate thereon or ground adjacent thereto, and again return on said road, shall, for each offense, forfeit a sum not exceeding ten dollars to and for the use of said company, and also for all damages done to the profits of said company in action at law.

May increase capital stock.

SECTION 15. The directors of said company, at any annual or special meeting of the stockholders, with the consent of a majority in amount of said stockholders, may provide for such increase of the capital stock of said company as may be necessary to complete said road.

SECTION 16. This act is hereby declared to be a public act, and shall be favorably construed to effect the purposes hereby intended, and copies thereof, printed by authority of the state, shall be received as evidence thereof in all cases; and this act shall be in full force and effect from and after its passage. Public act.

Approved April 15, 1861.

CHAPTER 76.

AN ACT to authorize the Lumberman's bank and the Bank of Moneka, to remove their places of doing business from Viroqua to Hustisford.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Lumberman's bank and Bank of Moneka are hereby authorized to remove their place of business from Viroqua, in the county of Bad Ax, to the village of Hustisford, in the county of Dodge, upon filing with the bank comptroller a certificate from the secretary of state that said banks have complied with the requirements of subdivision thirteen (13) of an act to amend chapter four hundred and seventy-nine (479) of the general laws of Wisconsin for the year 1852, entitled "an act to authorize the business of banking in the state of Wisconsin," approved May 15, 1858, and setting forth in said certificate the place to which said banks are to be removed: *provided*, that the holder or holders of any outstanding circulating notes of said banks may have such notes presented and the payment thereof demanded, and may cause such notes to be protested for non-payment at Hustisford, in the same manner and with like effect as if the same had been so presented, demanded and protested at Viroqua. May remove to Hustisford. Proviso.

SECTION 2. It shall not be lawful for the bank comptroller to issue to the said banks any circulating notes until their plates be so altered as to read "Hustisford" instead of Viroqua, as they now read. Issue of notes.

CHAPTER 77.

Certificate to be filed.

SECTION 3. Before this act shall take effect, the said banks shall cause a certified copy of its original certificate of incorporation, certified by the register of deeds of Bad Ax county, to be recorded in the office of the register of deeds in the county of Dodge, and file a copy of the same, certified by the register of deeds of Dodge county, in the office of the bank comptroller, and also in the office of the state treasurer.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1861.

CHAPTER 77.

AN ACT to incorporate the Watertown German musical society.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Body corporate.

SECTION 1. The members of the Watertown German musical society, in the city of Watertown, and all persons who shall hereafter be associated with them as members of said society, are hereby created a body corporate, by the name of the "Watertown German musical society," for the purpose of promoting the cultivation of musical taste among its members, by frequent rehearsals and performances, at concerts and on other suitable occasions, of old and new musical compositions, with the power for such purposes to take by purchase, devise or otherwise, and to hold, transfer and convey real and personal property to the amount of ten thousand dollars, and also to take and convey all such books, musical instruments and furniture and apparatus generally as may be necessary for attaining the objects and carrying into effect the purposes of said corporation; and also in their corporate name to sue and be sued, appear, prosecute and defend all actions and causes to final judgment and execution, in any court of law or equity, and to make by-laws and regulations, consistent with the laws of this state, for the government of said corporation, and for the due and orderly conduct and regulation of its affairs, and the management of its property.

Name, purposes and powers.

Management.

SECTION 2. The control and disposal of the funds, property and estate, and the general management of the affairs and concerns of the said corporation, subject to the direction and restriction contained in its by-laws and regulations, shall be vested in a board of directors, to consist of the president, the vice-president, the treasurer, the secretary, the musical directors and two assistants, of said corporation, who shall be elected semi-annually to their respective offices, by such members of said corporation, as [shall] be entitled by the by-laws and regulations thereof to vote at such election.

Present officers, funds, &c.

SECTION 3. The several officers of the said society or corporation, at the time of the passage of this act, shall continue to hold their respective offices until their successors are elected and qualified; and all personal property, funds or securities, now owned and held by the said society, or by any other person or persons in trust or for the use and benefit of said society, including all debts due or to become due to the same, from the members thereof, or from any other person or persons, shall vest in and become the property of the corporation hereby created, and the said corporation shall assume, and be liable for all the debts, obligations, contracts and agreements entered into previous to the passage of this act, by any of the officers of said society, lawfully acting in behalf of the said society.

Elections.

SECTION 4. The semi-annual election of officers of the said corporation shall be held on the first Monday of the months of January and July in each year, or on such other days as the said corporation by its by-laws and regulations may appoint, notice of which may be given as said by-laws shall provide.

Power of directors.

SECTION 5. The board of directors shall have power to appoint, and at pleasure remove, subordinate officers, agents or servants, as the business or interest of the said corporation, in their opinion, may require.

By-laws, &c.

SECTION 6. The present by-laws of the said society, so far as the same are consistent with the provisions of this act, shall continue in force, and govern and be binding upon the corporation hereby created, subject, however, to the right of the said corporation to alter or amend the same.

SECTION 7. This act shall take effect immediately after its passage.

Approved April 15, 1861.

CHAPTER 78.

AN ACT to amend chapter sixty-four of the private and local laws of 1861, entitled "an act to incorporate the Lake Superior forwarding company."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Sec. 7 amended.

SECTION 1. Section seven of chapter sixty-four of the private and local laws passed at the present session of the legislature, entitled as above, is hereby amended by striking out the word "April" where it occurs in said section, and inserting in lieu thereof the word "May."

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 15, 1861.

SUPPLEMENT

TO

PRIVATE AND LOCAL LAWS.

[The laws which appear in this supplement, are such acts of local interest as it was deemed necessary to "publish" as general laws, under decision of the supreme court in the case of "State of Wisconsin, *ex. rel.* Montgomery M. Cothern, *against* Joseph Lane." They were accordingly numbered as chapters of the general laws, and published in the *Wisconsin State Journal* on the days respectively stated at the head of each act; but are bound in this volume to avoid encumbering the volume of general laws with so much matter of mainly local importance.]

CHAPTER 57.

[*Published March* 8, 1861.]

AN ACT to amend chapter 140 of the local laws of 1859, entitled "an act to incorporate the village of Monroe."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Purchase of fire engine, &c.

SECTION 1. The trustees of the village of Monroe shall not have power to make any appropriation for the purchase of a fire engine, hose or hose cart, or any thing whatever appertaining therto, nor shall they have power to lease, purchase or hire any real estate, building or tenement for storing any fire engine or implements, or for the meeting of any fire company, nor shall they cause any such building to be erected for such purpose, nor shall they appropriate for any such purpose, any building now or hereafter owned by, or in the possession of the village, except upon the conditions hereinafter named.

CHAPTER 57.

Ordinance.

SECTION 2. When the trustees shall deem it advisable to take any action in reference to the matters mentioned in the foregoing section, they may pass an ordinance, submitting to the qualified electors of the village, at a regular annual village election, the matters mentioned in the first section of this act, and the said ordinance shall be passed at a regular meeting of the board of trustees, held two months before the annual election aforesaid, and said ordinance shall be passed by a vote of at least four of the trustees, the clerk entering upon the record the vote of each trustee. The said ordinance, when duly passed, shall be published for one month in a newspaper published in the village of Monroe, or it shall have no effect.

Question to be submitted to a vote.

SECTION 3. If the said ordinance shall pass, the matters contained therein may be submitted to the qualified voters of the village at the next regular annual village election, the ballot to be such as the trustees may prescribe, and shall be deposited in a separate ballot-box. If two-thirds of all the voters voting at such election, shall vote in favor of the measure, the trustees may purchase an engine, or buy a lot for the erection of an engine house, and erect a house thereon for that purpose, provided they shall deem it advisable: *provided, (further,)* that all ordinances in reference to this subject, shall pass by a vote of at least four of the trustees, at a regular meeting and at no other. The foregoing sections shall not affect or invalidate anything heretofore done by the trustees, nor be construed to prevent the trustees from letting the use of the building already constructed, to the company already constituted by the authority of the said village trustees, on such terms as they may deem proper.

Repeal.

SECTION 4. Section 6 of the village charter aforesaid, is hereby amended by striking out the provisions thereof, allowing interest on certificates given by the street commissioner hereafter to be issued.

Taxes to be certified by clerk, &c.

SECTION 5. All taxes, special or general, levied by the village of Monroe, shall hereafter be certified by the village clerk to the town clerk of the town of Monroe, and shall, by the town clerk, be entered on the annual tax roll of the town of Monroe, against the description of property on which it shall be assessed, in a separate column or columns; one column, properly designated, shall contain the general village tax, and

another column shall contain the special taxes, if any, and the entire village tax shall be collected by the town treasurer in the same manner and within the same time as other taxes on his roll are required to be collected. The town treasurer shall return all taxes by him collected for the purposes of said village, to the village treasurer; and all village taxes remaining unpaid, shall be returned by the town treasurer to the county treasurer, at the time prescribed by law for the return of other delinquent taxes, and any provisions of the charter allowing a separate roll for village taxes, is hereby repealed.

Cemetery grounds.

SECTION 6. The purchase of a cemetery ground, made by the village trustees during the past year, shall be as good and valid, to all intents and purposes, as though the same had been located and purchased in the town of Monroe.

Approved March 7, 1861.

CHAPTER 63.

[*Published March* 9, 1861.]

AN ACT to incorporate the village of Platteville.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Village of Platteville—boundaries.

SECTION 1. All of section No. fifteen, (15,) of township No. three, (3,) north of range No. one (1) west of the fourth principal meridian, in the county of Grant, in this state, shall hereafter be known and designated by the name of the "village of Platteville," and the inhabitants residing or who may hereafter reside within the limits of the said village, are hereby constituted a body corporate, by the name of "the president and trustees of the village of Platteville," and by that name they and their successors forever hereafter shall and may have perpetual succession, and shall be persons in law capable of suing and being sued, and pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and

Powers.

CHAPTER 63.

places, and in all suits whatsoever, with power of purchasing, receiving, holding, occupying and conveying real and personal estate, and shall have a common seal, and may change the same at pleasure, and shall be competent to have and exercise all the rights and privileges and be subject to all the duties and obligations pertaining to a municipal corporation.

Government—how vested.

SECTION 2. The government of said corporation and the exercise of its corporate powers and the management of its fiscal, prudential and municipal concerns, shall be vested in a president and six trustees, and such other officers as are hereinafter provided for.

Officers.

SECTION 3. The officers of the said corporation shall be one president and six trustees, one clerk, one treasurer and one constable, who shall be *ex officio* marshal of said corporation, one attorney, one surveyor and such other officers as the trustees shall ordain. The

Annual elections

president and trustees shall be elected by the qualified voters of the said corporation, on the second Monday of March in each year, and shall hold their respective offices for one year, and until their successors are elected and qualified. The clerk shall give at least ten days' notice of the time and place of holding any election, and the president and trustees, or any three of them, shall preside at every such election, and any vacancy in the office of president shall be filled by a special election, and vacancies in the office of trustees shall be filled by the president and trustees. All other

Appointed officers.

officers shall be appointed by the president and trustees, and shall hold their offices during the term for which the trustees are elected, and until their successors are appointed and qualified, and shall be subject to removal by the president and trustees. All persons qualified to vote in said village for members of the state assembly, and who are residents of said village at the time such vote is offered, shall be legal voters for corporation officers, and no person shall be eligible to the office of trustee, unless he is a freehold voter therein, and the president shall be *ex officio* a trustee of said village. The voters present at any election may appoint three voters to act as judges of election, in case there shall not be a quorum of trustees present to conduct the election.

How elections conducted.

SECTION 4. At all elections held under this act, the polls shall be opened at one o'clock in the afternoon,

and shall continue open until four of the clock in the afternoon of the same day, and the election shall be by ballot, conducted in the same manner, as far as may be, as elections for members of assembly, and a plurality of votes shall in all cases decide the election.

Special elections.

SECTION 5. In case such officers, or any of them, shall not be elected as herein provided, the corporation shall not thereby be dissolved, but special elections for the election of president and trustees, may be held as herein provided for annual elections, and in case there shall be no officer to give notice thereof, then such notice may be given by any ten freehold voters of said village as herein provided for annual elections.

Oath.

SECTION 6. Every officer elected or appointed under this act, before he enters upon the duties of his office, and within ten days after his appointment or election, shall take an oath faithfully to discharge the duties of his office, and to support the constitution of the United State, and of this state, and the laws thereof.

Treasurer and constable to give bonds.

SECTION 7. The treasurer and constable, before they enter upon the duties of their office, shall severally give bonds to the trustees in such sum, with such conditions and with such sureties, as said trustees or a majority of them shall direct.

"President and police justice"—duties, jurisdiction, fees, &c.

SECTION 8. The president shall preside at all meetings of the trustees, sign all commissions, licenses and permits, which may be granted by the trustees. He shall maintain peace and good order, and see that the ordinances of the village are observed and executed. A municipal court is hereby created in the said village, to be styled "the police court," and the person elected as president of said village, shall be elected on the same ballot as "president and police justice," who shall hold the said police court, and he shall have power to administer oaths and affirmations, and to take and certify acknowledgments and proofs of the execution of deeds and other instruments of writing relating to real estate or other matters required by law to be acknowledged or recorded, or both. As a judicial officer and court, the said police court and justice shall have and possess all the authority, jurisdiction, powers and rights of justices of the peace and justices' courts in civil and criminal proceedings, and shall have concurrent jurisdiction with justices of the peace and justices' courts of this state, residing in the said village, of all civil and

CHAPTER 63.

criminal actions and cases for the violation of any provisions of this act, or of any ordinance, by-law, rule, regulation or resolution of the said village. The president, when presiding at any meeting of the trustees, shall have a casting vote when the votes of the members are equal, and as police justice he shall receive the same fees as a justice of the peace receives for his services; but the village shall not be liable for his fees except such as shall accrue in prosecutions or actions brought in the name of the corporation for the violation of the provisions of this act, or for the violation of the ordinances of the said village. Appeals (*and writs of certiorari*) may be taken from the judgment of the police justice in the same manner, and with the same effect, as from justices of the peace.

Meetings, rules, &c.

SECTION 9. The president and trustees shall prescribe the time and fix the place of their meetings, which shall at all times be open to the public, and shall determine the rule of their proceedings, and keep a journal thereof, which shall be open for the inspection of every respectable citizen, at all reasonable times and hours; and shall have power to preserve order and propriety in their proceedings, and may adopt such by-laws, rules and regulations for their government as are not inconsistent with the provisions of this act, and shall have power to compel the attendance of its members.

Peace officers.

SECTION 10. The president, each and every trustee, marshal, each and every justice of the peace and constable of the county in which said village is situated, shall be officers of the peace, and may command the peace, and suppress in a summary manner all rioting and disorderly behavior in a manner consistent with law and the ordinances, by-laws, rules, regulations and resolutions of said village, within the limits thereof, and for such purpose may command the assistance of bystanders, and, if need be, all citizens, and if any person shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of ten dollars.

Marshal—his powers, duties, fees, &c.

SECTION 11. The marshal shall possess all the power and enjoy all the rights of a constable of this state, and be subject to the same liabilities. It shall be his duty to execute all writs and process to him directed by the president or other judicial officer, and when necessary

in criminal cases, or for the violation of any of the provisions of this act, or of any ordinance of said village, or by-law, rule, regulation or resolution thereof, he may serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to apprehend all disorderly persons in said village, and pursue and arrest any person fleeing from justice in any part of the state of Wisconsin, to apprehend any person in the act of committing any offense against the provisions of this act, or of the laws of this state, or the ordinances, by-laws, rules, regulations or resolutions of the village, and forthwith to bring such person before competent authority for examination; and for such and other similar services, he shall receive like fees as are allowed to constables for like services. It shall be the duty of the marshal to see that all peddlers, hawkers and common showmen, and all other exhibitors, pay their licenses according to law and this act, and the ordinances of the village; and in default of payment, to prosecute for the same in the corporate name of the village, and pay over the same to the treasurer when received by him.

Treasurer—his duties.

SECTION 12. The treasurer of said village shall perform such duties and exercise such powers as may be lawfully required of him, by the ordinances, rules, regulations, resolutions or by-laws of said village, and by law. All money raised, received, recovered and collected by means of any tax, license, fine, forfeiture or otherwise under the authority of this act, or which belongs to said village, shall be paid to and received by him, and shall not be drawn therefrom except by a written order, signed by the president and countersigned by the clerk, by order of the trustees. Such order shall specify the amount of money to be drawn, and its objects. He shall keep a just and accurate account of all moneys and other things coming into his hands as treasurer, in a book to be provided by the trustees for that purpose, which shall remain the property of the village, wherein he shall note the time when, the person from whom, the amount of the several sums received and the source from whence the said sums arose, which said book, at all reasonable times, shall be open to the inspection of the electors of the village. He shall, as often as the trustees require, render to said

CHAPTER 63.

trustees a minute account of his receipts and payments, and at the expiration of his term of office, he shall pay over and deliver to his successor all moneys, books and vouchers in his possession belonging to said village.

Clerk—his duties and powers.

SECTION 13. It shall be the duty of the clerk to keep a record of the doings of the board of trustees, especially of the passing of by-laws, ordinances, rules, resolutions and regulations, and also a faithful record of all the doings and votes of the inhabitants of said village, at their annual and other legal meetings, and to keep on file all papers which may be ordered by the trustees. The records kept by the clerk shall be evidence in all legal proceedings, and copies of all papers duly filed in his office, and transcripts from the record of proceedings of the board of trustees, certified by him under the corporate seal, shall be evidence in all courts of the contents of the same. He shall keep the corporate seal of the said village. He shall keep a full and accurate account of all orders drawn on the treasury, in a book provided for that purpose, and shall keep all accounts of the corporation with individuals, and shall also keep an accurate account with the treasurer, and charge him with all taxes levied, and sums of money paid into the treasury, and all receipts of the payment of money or property to the treasurer shall be countersigned by the clerk, before they shall be a legal voucher against the village. The clerk shall have power to administer oaths.

Attorney.

SECTION 14. The attorney shall perform all professional services incident to the office, as prescribed by ordinances or by resolutions of the president and trustees, or as directed by the president, and when required shall furnish written opinions to them.

Other duties may be required of officers.

SECTION 15. The president and trustees shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them. Such compensation shall be fixed by resolution, at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office.

SECTION 16. If any person having been an officer in said village, shall not within ten days after notification and request, deliver to his successor in office all property, moneys, books, papers and effects of every description in his possession, belonging to said village or pertaining to the office he may have held, he shall forfeit and pay to the use of the village one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state. Penalty.

SECTION 17. The surveyor shall be a practical surveyor and engineer, and his duties shall be prescribed and directed by the president and trustees, and his fees and compensation shall be fixed by them for any service performed by him. All surveys, profiles, plans, plats or estimates, made by him for the village, shall be the property of the village, and shall be filed and carefully preserved in the office of the clerk or other officer, as may be directed by them, and shall be open to the inspection of all persons interested. Surveyor.

SECTION 18. The style of all ordinances passed by the president and trustees shall be, "the president and trustees of the village of Platteville do ordain as follows." The president and three trustees, or four trustees, shall constitute a quorum for the transaction of any business, and in the absence of the president, the trustees present shall appoint one of their number president *pro tem.* who shall possess all the powers of the president, except as a police justice. Style—quorum.

SECTION 19. The president and trustees shall have the exclusive authority within the corporate limits of the said village to grant, according to law or ordinance, or both, licenses for selling wine, beer or cider, or spirituous, intoxicating, alcoholic, vinous, fermented, malt or mixed liquors, liquids or drinks, regulate and license groceries, taverns, hotels, victualing houses and saloons, and all persons vending or dealing in any such liquors, drinks or liquids, and to revoke the same; and no person shall sell, vend, deal in, or, for the purpose of evading the provisions of law, or of this act, or the ordinances of said village, give away any such wine, beer, cider or intoxicating, spirituous, alcoholic, vinuous, fermentd, mixed or malt liquors, liquids or drinks, within such corporate limits, without having first obtained license Licenses.

CHAPTER 63.

thereof, as provided by this act, the laws of this state, and the ordinances of the said village, and any person who shall in any manner violate any of the provisions of this section, or the ordinances of the laws herein referred to, shall on conviction thereof, be punished as provided by the laws of this state and the ordinances of said village on this subject, and all such offenses shall be prosecuted as provided by such laws and ordinances. All money received for such licenses shall be paid to the treasurer of said village for its use: *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of this state, or the ordinances of the said village, and that no license shall be granted for a less time than one year; *and provided, further*, that no person thus licensed, or without being so licensed, shall sell or give away any such wine, beer, cider or spirituous, intoxicating, alcoholic, vinous, fermented, mixed or malt liquors, liquids or drinks, on election day, or on Sunday.

Penalties for violation of license laws.

In all prosecutions for any violation of this section, or of the laws or ordinances herein referred to, it shall be sufficient to allege in general terms, the selling, vending, dealing in or giving away without such license of such inhibited liquors, liquids or drinks, and the proof on the trial of such selling, vending, dealing in or giving away to any person, of any one of such inhibited liquors, liquids or drinks, shall be sufficient to warrant and sustain a conviction; or proof that the person charged kept a bar, side-board or other thing or fixture, with bar furniture usually used by persons vending or dealing in such inhibited liquors, liquids or drinks, shall be *prima facie* evidence sufficient to warrant and sustain a conviction; or proof that he delivered any such inhibited liquors, liquids or drinks to any person, shall also be *prima facie* evidence sufficient to warrant and sustain a conviction for any such violation.

Slaughtering cattle, &c.

SECTION 20. No person shall slaughter or kill, within the corporate limits of the said village, any cattle, sheep or swine, without the consent of the president or of the trustees. Any person who shall violate this section shall, on conviction thereof, forfeit and pay for each offense the sum of twenty-five dollars, with costs of prosecution, to the said village, for its use, to be recovered before any justice of the peace of said county.

SECTION 21. No person shall keep a slaughter house, yard or pen, or occupy any open ground for slaughtering purposes, within the corporate limits of the said village, or keep any such place for depositing the offal of slaughtered animals within such limits, without the consent of the said president and trustees, entered of record; and any person who shall violate this section shall, on conviction thereof, forfeit and pay for each day he shall keep or occupy any such place for such purpose, the sum of fifty dollars, with costs of prosecution, and shall also, in addition therto, be guilty of a misdemeanor, and on conviction thereof shall be punished by fine and imprisonment. All such places are hereby declared to be "common nuisances," and shall be abated as provided by law and the ordinances of said village. Slaughter houses

SECTION 22. The president and trustees shall have the control and management of the finances and of all the property of the village, and shall likewise, in addition to the powers herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, regulations, resolutions and by-laws for the government and good order of the village, for the suppression of vice and immorality, for the prevention of crime and for the benefit of trade, commerce and health, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, regulations, resolutions or by-laws, and such ordinances, rules, regulations, resolutions and by-laws are hereby declared to be and have the power and force of (*of*) laws: *provided*, that they be not repugnant to the constitution and the laws of the United States or of this state; and for these purposes shall have authority, by ordinances, resolutions, by-laws, regulations or rules: Powers and duties of president and trustees.

1st. To license and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, and to provide for the abatement and removal of all nuisances, under the ordinances or at common law; to restrain, rohibit or license billiard tables, ten pen or other ball lleys, or the setting up or playing on the same in aid village. Shows.

CHAPTER 63.

Gaming.

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming, in the said village, and to restrain any person from vending, giving or dealing in spirituous intoxicating, alcoholic, malt, mixed, fermented or vinous liquors, unless duly licensed by them.

Riots, &c.

3d. To prevent any riots, noises, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purposes of gaming.

Nuisances.

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said village.

Slaughter houses and markets.

5th. To direct the location and management of slaughter houses and markets, and to prevent the erection, use and occupation of the same, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of the same, or other combustible materials.

Encumbering streets, &c.

6th. To prevent the encumbering of the streets, sidewalks, lanes and alleys, with carriages, sleighs, boxes, lumber, firewood or any other materials or substances whatever, and to prevent the digging or sinking of mineral or other shafts or holes in the streets, alleys or other public grounds of said village.

Horse racing.

7th. To prevent horse-racing, immoderate riding or driving in the streets, and to regulate the places of bathing in the water within the limits of said village.

Restraining horses, &c.

8th. To restrain the running at large of horses, cattle, mules, asses, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same.

Dogs.

9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

Putrid carcasses, &c.

10th. To prevent any person from bringing, depositing, or having within said village any putrid carcass, or other unwholesome substance, and to require the removal of the same by any person who shall have upon

his premises any such substance, putrid or unwholesome or unsound beer, pork, fish, hides or skins of any kind, and in default of such person, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Pounds, &c.

11th. To make and establish pounds, and appoint pound masters and fence viewers, and prescribe their powers and duties; also, to protect shade or ornamental trees on the public squares or in the streets of the corporation; also, to fence the public squares and grounds of said corporation, and to protect the same and monuments in said village.

Boards of health, &c.

12th. The establish and regulate boards of health, provide hospitals for those infected with small pox or other contagious diseases, and order and regulate the removal of such persons from the village, when its health and safety so require, and to provide grounds for the burial of the dead.

Special meetings

13th. To call regular and special meetings of the voters of the said village, and to prescribe the compensation of all officers of the corporation, except their own, and shall examine, audit and adjust the accounts of all persons and of all officers of the corporation.

Fire companies, storage of gunpowder, &c.

14th. To organize fire companies, hook and ladder companies; to regulate their government and the time and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires; to require the owners of buildings to provide and keep suitable ladders and fire buckets, which are hereby declared to be appurtenances to the real estate, and exempt from seizure, distress or sale in any manner; and if the owner shall neglect or refuse to procure suitable ladders or fire buckets, after reasonable notice, the trustees may procure and deliver the same to him, and in default of payment therefor, may recover of such owner the value of such ladder or fire buckets, or both, with costs of suit; to regulate the storage of gunpowder and other dangerous materials; to direct the safe construction of places for the deposit of ashes; to appoint one or more fire wardens to enter into, at reasonable times, and examine all dwelling houses, lots, yards, enclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in a safe condition; to regulate the manner of putting up stoves

CHAPTER 63.

ment, two fire wardens and as many assistant wardens as they shall from time to time deem necessary, one sealer of weights and measures, sextons and keepers of burial grounds, and a street commissioner, and prescribe their duties and fix their compensation, under the provisions of this act; and to impose and enforce in law such penalties as to the said trustees may seem proper, for any malfeasance or improper conduct of any of said officers, and to require bonds for the faithful performance of the duties of any or such of them as may be deemed expedient and necessary by the trustees.

Grade of streets.

SECTION 24. The president and trustees shall, at such time as they may deem proper, establish the grade of all streets, alleys and side walks in said village, and shall cause accurate profiles thereof to be made, which shall be filed with the clerk.

Tax for street improvements.

SECTION 25. Whenever the trustees shall levy any tax for the purpose of grading, paving or otherwise improving any street, or for the building or repairing any side walk, or for any other special purpose, they shall make out and deliver to the street commissioner such tax to be collected and expended, a list of persons, and a description of the property taxed; and thereupon the street commissioner shall notify the persons named in such tax list, by publishing a notice in three or more of the most conspicuous places in said village, or in some public newspaper printed therein, and shall specify in such notice a time not less than twenty days nor more than thirty days from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, materials or money; and the persons charged with such tax may, within such time and at such place as may be required by such street commissioner, pay their taxes in labor or materials: *provided*, the labor and materials offered in payment for such taxes, are suitable and such as may be required by said street commissioner.

Collection of taxes.

SECTION 26. At the expiration of thirty days from the time the said street commissioner shall have received such tax list, he shall return the same to the trustees, accompanied by a statement verified by his affidavit subscribed thereto, showing the amount of tax collected in labor and materials, and the amount collected in money, and the manner in which such money was ex-

pended and the items of expenditure; also, the taxes which remain unpaid, and the persons and descriptions of real estate and lots to which such unpaid taxes stand charged; and the clerk of said village shall make out a certified copy thereof, and deliver the same to the town clerk of the town in which said village is situated, who shall, in making out the duplicate tax and assessment of such town next thereafter, enter such unpaid special taxes therein in a separate column, with ten per cent. added thereto, opposite to the names of the persons and descriptions of property against which the taxes so remain charged and unpaid; and such taxes shall be collected in the same manner as the general taxes of said village and town are collected, and when so collected, shall be paid over on the order of the trustees, and when not previously applied, shall be expended under their direction on the street or side walk, or for the purpose for which they were originally assessed.

Penalty for violation of ordinances, &c.

SECTION 27. In all cases in relation to which, by the provisions of this act, the president and trustees have power to enact or pass ordinances, rules, regulations, resolutions or by-laws in relation to any subject, they may prescribe any penalty for the violation of such ordinances, rules, regulations, resolutions or by-laws, not exceeding fifty dollars for any one offense in violation or non-observance thereof; and may also provide that in default of payment of any judgment rendered for such violation or non-observance, the offender may be imprisoned for such term as they may, by such ordinance, by-law, rule, regulation or resolution, direct, not exceeding thirty days; for which purpose the said village shall have the use of the jail of the county in which said village is situated, for the imprisonment of any person liable to be imprisoned, and all such persons committed to said jail by the marshal or any other officer, shall be under the charge of the sheriff of said county.

How actions to recover penalties to be brought.

SECTION 28. All actions brought to recover any penalty or sum of money or forfeiture under this act, or the ordinances, by-laws or rules, regulations, resolutions or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the village, without being required to give security for costs in any such action, and the process may be either by summons or warrant; and it shall be suffi-

CHAPTER 63.

cient without setting forth the special matter, to declare generally, stating the clause of this act, or by-law, ordinance, resolution, rule or regulation under which the act is brought. The defendant may plead the general issue and give the special matter in evidence, and a printed copy of an ordinance, by-law, rule, regulation or resolution published in a newspaper or pamphlet by authority of the trustees, shall be *prima facie* evidence of the passage and publication of such ordinance, by-law, rule, regulation or resolution.

Executions — defendant may be imprisoned.

SECTION 29. Every execution issued upon judgments for any violation of the provisions of this act, or for the violation or non-observance of any ordinance or by-law, rule, regulation or resolution of said village, shall contain a clause directing, in the event of non-payment of the judgment, the imprisonment of the defendant in the said county jail, or the jail provided by said village, for such term as shall have been provided for by this act, or the ordinance, rule, regulation, resolution or by-law under which the judgment shall have been rendered, or in the discretion of the court, in the absence of such provision by this act, or by rule, regulation, resolution, by-law or ordinance. All fines, penalties and forfeitures, when collected, shall be paid into the treasury of said village for its use.

Publication of ordinances, &c.

SECTION 30. Any ordinance, regulation, resolution, rule or by-law, imposing any penalty or forfeiture for the violation of its provisions, shall be published one week in some newspaper in the village before the same shall be in force, except as hereinafter provided; and proof of such publication, by affidavit of the printer or foreman in the office of such newspaper, or by producing such newspaper containing such publication, shall be conclusive evidence of the publication and promulgation of such ordinance, regulation, resolution, rule or by-laws, in all courts and places; and within ten days after such publication, they, with said affidavit, shall be recorded by the clerk of the village in books to be provided for that purpose, which record shall also be conclusive evidence of such publication and passage of such ordinance, rule, regulation, resolution or by-law, in all courts and places. No ordinance, rule, regulation, resolution, by-law or appropriation shall be passed, made, altered, amended or repealed, without an affirmative vote of a majority of the president and

trustees in its favor, which vote shall be taken by "ayes" and "noes," and entered of record.

SECTION 31. All notices, ordinances, by-laws, rules, regulations, resolutions or other matter required by or under this act to be published in a newspaper, shall be published in a weekly newspaper published in said village, if there be one, and if no such paper shall be published in said village, then the same shall be published by posting up the same, either in writing or print, in three or more of the most public places in the said village. In all actions brought by or in the name of the said village, or against it, the said village shall have the same right of appeal, or to a writ of certiorari or of error as individuals have, and in no case shall any judgment be rendered against said village for costs, but it shall be liable for costs to the same extent that the state is liable for costs in criminal cases, and no more.

Appeal.

SECTION 32. The said trustees shall have power to build and erect a jail for the use of the corporation, which may be used for confining offenders, either for safe keeping or punishment, in like manner as the county jail may be used by the said corporation.

May erect jail.

SECTION 33. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said village, in any action or proceeding in which said village is a party or interested.

Competency of judge, &c.

SECTION 34. The powers conferred upon the said president and trustees, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where intoxicating, alcoholic, malt, mixed, spirituous, vinous or fermented liquors are sold, without the license required therefor, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances, and shall be abated as herein provided, and according to the laws of this state, for abating nuisances.

Suits to abate nuisances.

SECTION 35. The police justice and the justices of the peace residing within the corporate limits of the said village, shall have exclusive jurisdiction of all actions arising under this act, or the ordinances, by-laws,

Exclusive jurisdiction.

CHAPTER 63. rules, resolutions or regulations passed in pursuance of this act, unless otherwise specially provided.

Survey of streets, &c.

SECTION 36. The president and trustees are hereby invested with full power and authority to survey, ascertain, establish and determine the lines, boundaries, width and dimensions of all streets, highways, alleys, lanes and public grounds in the said village, which determination, when recorded, shall be conclusive upon all persons and parties; and whenever and wherever the same are now, or shall be hereafter encroached upon or obstructed, by any person, or in any manner, they shall have power to cause the same to be removed in a summary manner, by giving notice to the person suffering or causing such encroachment or obstruction, to remove the same within not less than ten days after service of such notice; and in case of neglect, default or refusal of such person to remove the same within the time specified in such notice, they shall order and direct the marshal or the street commissioner to remove the same forthwith, at the expense and costs of such person, to be recovered the same as fines and penalties are recovered, as provided by this act, and for the purpose of such removal, the marshal or street commissioners are hereby authorized to call to their assistance all officers and persons; and every officer or person refusing to render such assistance, shall forfeit and pay a fine of ten dollars.

Commissioners—establishment of land marks, &c.

SECTION 37. The president and trustees of said village may, at any time, appoint three commissioners, resident freeholders of said village, who, with the assistance of the surveyor, or such other assistant surveyors as the said president and trustees may appoint, shall cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, side walks, public grounds, lots, blocks and tracts of land, and shall cause to be established such permanent land marks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the said surveyor and commissioners, which, when approved by the said president and trustees, shall be filed in the office of the clerk, and a copy thereof shall be recorded in the office of the register of deeds of the proper county.

SECTION 38. The survey, land marks and plats so made and established and recorded, shall be conclusive evidence of the lines and boundaries of all streets, alleys, side walks, public grounds and blocks, in all cases in which they shall be drawn into controversy in all courts of this state, and shall be *prima facie* evidence of the lines and boundaries of all lots and tracts of land owned by individuals.

Prima facie evidence of lines.

SECTION 39. When any suit or action shall be commenced against the said village, the service in such case may be made by leaving a copy of the process duly certified to by the proper officer, with the president, and it shall be the duty of the president forthwith to inform the trustees thereof, or to take such other proceedings as by the ordinances or resolutions of said village, may be in such case provided.

Service of process against village.

SECTION 40. No real or personal property of the said village or of any inhabitant of said village, or of any individual or corporation, shall be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said village.

Real estate not to be levied on.

SECTION 41. Any peace officer may, and it shall be the duty of the marshal, to arrest without process any person found in a state of intoxication or guilty of immoderate drinking, improper reveling, obscenity, or noisy, boisterous or disorderly conduct, in the streets or public places, and take such person or persons forthwith before the police justice, or a justice of the peace in said village, or keep them until they become sober, in confinement, or until such time as said justice can reasonably hear and dispose of such offender.

Arrest without process.

SECTION 42. The president and trustees, in case of laying out or widening any street, alley or public walk, shall pay to the owner or owners of any land or lots through which any such street, alley or public walk so laid out or widened by them shall pass, adequate compensation for any damages which may be sustained in consequence.

Damages for widening streets.

SECTION 43. Such damages shall be ascertained by six freehold electors of the said village, to be summoned by or under the direction of the president of said village for that purpose, as a jury, who shall determine the necessity thereof. They shall be selected by the said president and the party claiming damages, in the same manner as jurors before justices of the peace in

How to be ascertained.

civil cases are selected, and after being selected and summoned as aforesaid, they shall be sworn by the said president truly to ascertain upon actual view, first, the necessity thereof, and then such damages. They shall take into consideration the benefit, if any, as well as the damage, from the laying out or widening of such street, alley or public walk, to such party claiming damage; and the persons so selected, summoned and sworn, shall proceed to the discharge of their duty in the premises, and make report in writing over their several signatures, to said president within twenty-four hours, which report shall be binding upon the corporation and the party claiming such damages.

Expenditure of highway taxes.

SECTION 44. All highway taxes assessed or payable on property or persons resident or being within said village, shall be expended on any and all the highways streets and bridges in said village, but not on any side walk, crossing or alley; and the overseers of highways in said village, and every overseer of highways of whose district any portion of said village shall form a part, shall apply and expend the highway taxes assessed and collected on property or persons resident or being within said village, under and according to the direction and control of the board of trustees of such village or such person as they may appoint, any law to the contrary notwithstanding; and said board shall have power to appoint, during their pleasure, a street commissioner, as their agent, to direct and control the expenditure of highway taxes in said village, and the building and repairing of bridges therein, whose compensation for services rendered by him in the discharge of his duties, shall be such as they may order or allow, not exceeding one dollar and fifty cents per day: *provided, however*, that the board of trustees of said village may, by special order previously made, allow such portion of the highway taxes assessed or collected as aforesaid in said village, not exceeding one-third part thereof, to be expended without the limits of said village on any public highways leading from said village.

Payment of outstanding debts.

SECTION 45. The president and trustees shall have power, and it is hereby made their duty, in each year to levy and assess upon the taxable property in said village, such a sum of money as taxes as shall be sufficient to pay and discharge the outstanding debt of the

corporation, if any, and its expenses for the current year, after applying the money derived from other sources to such purposes, and no more.

How tax levied.

SECTION 46. All taxes raised and collected in the said village of Platteville, for the purposes authorized by the last preceding section, shall be levied and assessed upon the same kinds of property, real and personal, within the corporate limits of the said village, as taxes for town, county and state purposes are levied and assessed.

Amount to be determined.

SECTION 47. The president and trustees of the said village shall, on or before the first Monday of November in each year, by resolution, to be entered on their records, determine the amount of such corporation tax to be levied and assessed on the taxable property within the corporate limits of the said village, for the current year; and the clerk of the said village shall thereupon, on or before the third Monday of the same month of November in each year, deliver to the town clerk of the town in which such village is situated, a certified copy, under his hand and name, and the corporate seal of the said village, of all resolutions of the said president and trustees, determining the amount of taxes to be levied and assessed for the current year, together with a description of the territory included within the corporate limits of the said village.

How assessed and collected.

SECTION 48. The town clerk or other proper officer, as the case may be, of the town in which said village is situated, shall assess, apportion and carry out such corporation taxes *pro rata*, according to the dollar valuation, upon all the real and personal property liable therefor, in a separate column in the tax and assessment roll and warrant of his town, next thereafter issued and delivered to the town treasurer of his town for collection, in the same manner as he shall assess, apportion and carry out, town, county and state taxes; and if, for any reason, such corporation taxes shall not be assessed, apportioned and carried out in the next assessment and tax roll and warrant, as herein provided, it shall or may be assessed, apportioned, carried out and collected in that of any succeeding year. The said corporation taxes shall be in all respects collected or returned delinquent, in the same manner as town, county and state taxes are collected by law, and when collected shall be paid over by any officer collecting or

receiving the same, to the treasurer of the said village. Any officer or other person who shall neglect or refuse on demand, to pay over any such corporation taxes when collected or received by him, in any manner, to such village treasurer, shall be liable to an action therefor, with twenty per cent. damages to be added thereto, to be sued for and recovered in the corporate name of the said village, both against such defaulting officer or other person and his sureties.

Duty of town assessor.

SECTION 49. The town assessor of the town in which said village is situated, in assessing the taxable property in his town in each year, shall assess the taxable property, real and personal, within the corporate limits of the said village, in one continuous part of his assessment roll, and foot up the valuations of all the items of property assessed and valued by him within said limits.

Statement of election of officers to be filed with clerk of circuit court.

SECTION 50. No general law, contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law. It shall be the duty of the clerk of the said village, immediately after any election under this act, to make out a statement of the persons elected as corporation officers, and of the persons appointed to the offices of clerk, constable and treasurer of the corporation, whenever an appointment of such officers is made, with the fact of the acceptance and qualification of such officer so elected or appointed, under his hand and corporate seal, and file the same in the office of the clerk of the circuit court of the county in which said village is situated; and it is hereby made the duty of the clerk of such circuit court to file the same in the same manner as he files and preserves like certificates of the election and qualification of justices of the peace and other town officers. The police justice shall file a duplicate of [of] his oath of office with the said clerk of the said circuit court.

First election.

SECTION 51. The first election of officers under this act shall be held on the second Monday of March, A. D. 1861, in case this act shall take effect on or previous to that day, and the official publication of this act shall be sufficient notice of such election; and in case this act shall not take effect on or previous to that day, or in case no election shall be held on that day under this act, then such first election of officers under this act

shall be held at such time thereafter as the president and trustees of the said village, under the charter of the said village hereby repealed, shall, by resolution, order and appoint, giving at least ten days' notice thereof; and it is hereby made their duty to order and appoint such election within twenty days after this act shall take effect. In case said first election shall not be held on the said second Monday of March, A. D. 1861, and in case of their default to order and appoint such election as herein provided, then the same may be ordered and appointed by any ten freehold voters as provided in section five of this act.

Rights, immunities, &c.

SECTION 52. All the rights, immunities and franchises of the town or village of Platteville, as heretofore incorporated, shall pass to and be enjoyed by the said village as incorporated in this act in all respects when not inconsistent with this act, and the present officers of said village shall hold their respective offices until their successors are elected under this act and qualified.

Repeal.

SECTION 53. An act entitled "an act to incorporate the town of Platteville," approved February 19th, 1841, and the several acts revising and amendatory thereof, are hereby repealed, but the repeal of said acts and parts of acts shall not in any manner effect, [affect,] injure or invalidate any contracts, suits, acts, claims, or demands, rights, actions, causes of action, remedies, offenses, duties, liabilities or obligations that may have been committed, suffered, done, entered into, performed, commenced, or that may exist under or by virtue or in pursuance of the said acts or any of them, but the same shall exist and be enforced and carried out as fully and effectually to all intents and purposes as if this act had not been passed; and all ordinances, resolutions, regulations, rules, by-laws and orders of the president and trustees of said village, or parts thereof not repealed, suspended or made void by this act, shall continue and remain in full force and effect until altered, amended, repealed or suspended in pursuance of this act by the president and trustees.

President entitled to seat in county board.

SECTION 54. The president of said village shall be entitled to a seat in the county board of supervisors of Grant county, as the representative of said village, and shall have equal rights, powers and privileges with other members of said board.

CHAPTER 78.

Public act.

SECTION 55. This act shall be considered a public act, and shall be construed favorably in all courts and places, and shall take effect and be in force from and after its passage and publication; and it is hereby made the duty of the secretary of state to cause this act to be published in the official state paper immediately after [its] passage.

Approved March 8, 1861.

CHAPTER 78.

[*Published March* 29, 1861.]

AN ACT to amend an act entitled "an act to incorporate the city of Mineral Point," approved March 2d, 1857, and also acts amendatory thereof, approved March 25th, 1858, March 17th, 1859, and March 9th, 1860.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The act to incorporate the city of Mineral Point, approved March 2d, 1857, and all acts amendatory thereof, are hereby amended so as to read as follows, to wit:

CHAPTER ONE.

CITY AND WARD BOUNDARIES.

Names, powers, &c.

SECTION 1. All that district of country in the county of Iowa, hereinafter described, from and after the first Tuesday in April next, shall be and constitute a city by the name of Mineral Point, and the people now inhabiting and those who shall inhabit said district, shall be a municipal corporation by the name of the city of Mineral Point, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall have and possess the powers hereinafter specially granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

SECTION 2. The territory included within the following described limits and boundaries shall constitute the city of Mineral Point, to wit: all of section number thirty-one (31,) and the west half of section number thirty-two (32,) in township number five (5,) north, and range three (3,) east; also, the north half of section number six (6,) in township number four (4,) north of range number three (3,) east; also, the north-east quarter of section number one (1,) in township number four (4,) north of range two (2) east, and the east half of section number thirty-six (36,) in township number five (5,) north of range two (2) east of the fourth principal meridian. Boundaries.

SECTION 3. The said city shall be divided into two wards, as follows: all that part lying on the west side of Chestnut street, extending north in a direct line, and all lying west of the west line of Bracken and Irving's addition, shall constitute the first ward, and all that part lying on the east side of said street and line shall constitute the second ward. Ward boundaries

SECTION 4. The corporate authority of said city shall be vested in one principal officer, styled the mayor, in one board of aldermen consisting of three members from each ward, who with the mayor shall be denominated the common council, together with such other officers as are hereinafter mentioned, or may be created under this act. City officers.

CHAPTER TWO.

ELECTIONS.

SECTION 1. From and after the first Tuesday in April next, the elective officers of said city of Mineral Point, shall be a municipal judge, a school superintendent, a treasurer, and an assessor for the city at large, and three aldermen, one justice of the peace and one constable in each ward, who shall hold their respective offices as follows: the municipal judge, school superintendent, treasurer assessor and constable for one year, justices of the peace for two years, and one alderman in each ward shall be annually elected who shall hold his office for three years, and shall respectively hold their offices until their successors are elected and qualified. The term of office of all officers shall commence Elective officers. Term of office.

CHAPTER 78.

on the second Tuesday of April of the year in which they are elected. Said officers shall have such power and perform such duties as are prescribed by law or as may be prescribed by any ordinance of said city, not inconsistent with this act, or which may not be incompatible with the nature of their respective offices

When term commences.

Election.

SECTION 2. On the first Tuesday of April next, the qualified voters of said city shall elect a municipal judge, a school superintendent, a treasurer and an assessor, which said officers shall be qualified voters resident in said city; and on the same day and at the same places of holding said election, the said qualified voters shall also elect one alderman, one justice of the peace, and one constable for each ward. The officers last aforesaid shall be residents of the respective wards for which they are elected. The present common council of the city of Mineral Point shall designate the place of holding said election in each ward, and said election shall be conducted as now provided by law; and at every subsequent first Tuesday in April, elections shall be held in the several wards for the officers above designated, and said elections shall be presided over by the aldermen in the respective wards, or in case of their absence or disability the voters present at the hour of opening the polls, shall elect by *viva voce*, a sufficient number of inspectors to make three with the alderman or aldermen present, who shall be sworn in accordance with laws of the state. They shall appoint and swear two clerks, and shall see the names of the voters registered, and the ballots safely deposited in the ballot box, shall decide all questions that may arise as to the legality of the votes presented, shall count the ballots at the close of the polls, and shall certify and seal two returns; and the day following the election, shall direct and return one of the said returns to the clerk of the city council, and the other to the clerk of the board of supervisors of the county of Iowa. The municipal judge and such members of the common council as shall hold over, shall constitute a board of canvassers, who shall within five days after election, meet at the common council chamber and canvass such returns, and after the aforesaid returns have been canvassed by said board, the municipal judge shall notify, by a certificate under his hand, the persons elected to the respective offices. The polls shall

Subsequent elections—how conducted.

be kept open in the respective wards from nine o'clock in the forenoon until five o'clock in the afternoon: *provided, however*, that the board may adjourn the polls at twelve o'clock noon, for one hour.

Vacancies.

SECTION 3. In the event of a vacancy in the office of municipal judge or alderman, by death, removal or other disability, the common council shall order a new election, and shall give five days' notice thereof. Any vacancy in other offices shall be filled by the common council. The person appointed or elected to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Tie votes.

SECTION 4. All elections by the people shall be by ballot, and plurality of votes shall constitute an election. All elections by the common council may be *viva voce*. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they may direct.

Qualification of electors.

SECTION 5. All persons entitled to vote for state or county officers, and who shall be actual residents of the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this law, and to hold any office created by this act.

Challenge.

SECTION 6. If either of the inspectors of elections or aldermen shall suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspector or aldermen, before receiving any such vote, shall require the voter offering, to take the following oath: "You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years of age, that you are a citizen of the United States, or have declared your intention to become a citizen conformably to the laws of the United States on the subject of naturalization, that you are now an actual resident of this ward, that you have not voted at this election, and that you have made no bet or wager depending on the result of this election." And if the person offering to vote shall take such oath, his vote shall be received, and if such person shall take such oath falsely, he shall be deemed guilty of a willful and corrupt perjury.

Perjury.

CHAPTER 78. and upon conviction thereof, upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be liable to indictment, and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars nor less than twenty dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged, as aforesaid, and shall swear in their votes; and if any inspector or alderman shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of any election, or any clerk shall not write down the name of every voter as he votes, or shall willfully make untrue and incorrect counts and tallies of votes, each and every [such] inspector or clerk shall be liable to indictment, and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars nor less than one hundred dollars. All such indictments shall be tried in the circuit court of the county of Iowa.

Illegal voting.

Penalty for receiving illegal votes or keeping false tally.

Special elections

SECTION 7. Special elections to fill vacancies or for any other purpose, shall be held and conducted by the aldermen of each ward, or inspectors, as provided by this act, and returns thereof shall be made in the same time, form and manner as of general or annual elections.

When office deemed vacant, &c.

SECTION 8. Any officer removing from the city, and any ward officer removing from the ward for which he was elected, and any officer who shall neglect or refuse to qualify on or before the first Monday of June next after his election, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy, as herein provided. All officers appointed or elected to fill any vacancy shall enter upon the duties of such office immediately after receiving notice of such election or appointment.

CHAPTER THREE.

OFFICERS, THEIR POWERS AND DUTIES.

Oath.

SECTION 1. Every person elected or appointed to fill any vacancy under this act, shall, before he enters

upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the city clerk; and the treasurer, marshal, constable, police justice and justices of the peace, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective officers, execute to the city of Mineral Point a bond in such sum and with such security and such conditions as the common council may direct; and the common council may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

Bond.

SECTION 2. There is hereby created and established a "municipal court" in said city, to be known and called by that name. The municipal judge shall be the judge of said court, and have and possess all of the powers of a justice of the peace of the county. The said court shall have jurisdiction throughout the county of all civil actions of which a justice of the peace by law has jurisdiction, and exclusive jurisdiction of all criminal causes and matters of which a justice of the peace has jurisdiction, where the cause shall originate within the limits of the city, and also exclusive jurisdiction of all causes growing out of the violation of any ordinance of said city, and of all such cases wherein the city is a party, as are within the jurisdiction of a justice of the peace: *provided*, that any justice of the peace in said city shall have jurisdiction of the causes last aforesaid, in case of absence, sickness or other inability of said municipal judge, or in case of a vacancy in such office, until the same shall be filled. The said municipal judge shall be entitled to receive for his services the same compensation in fees as is allowed by law to justices of the peace for similar services and no other, but the city shall not be liable to said municipal judge for his said fees, except such as shall accrue in prosecutions for the violation of the city charter or ordinance of the city. Appeals may be taken from the judgment of said municipal court in the same manner for the same cause, and in the same cases in which appeals may be taken from the judgment of justices of the peace to the circuit court; and shall, in the appellate court, be tried in the same manner and be subject to the same rules and practice. The municipal judge shall quarterly

Municipal court, —powers, jurisdiction, &c.

When justices may have jurisdiction in certain cases.

Fees of judge.

Appeal.

Quarterly report.

CHAPTER 78.

report to the common council a list of all proceedings instituted before him in behalf of the city and the disposition thereof, and shall at the same time pay over to the treasurer the amount of all penalties and fines collected which may by law accrue to the city.

Judge *ex officio* mayor.

SECTION 3. The municipal judge shall be *ex officio* mayor, who shall, when present, preside over the meetings of the common council, and shall take care that the laws of the state and the ordinances of the city, within the corporation, are duly enforced and observed, and that all officers of the city discharge their respective duties. He shall appoint the police force in such numbers as the common council shall direct, and, in case of a riot or disturbance of the peace, shall appoint temporary police. He shall communicate in writing to the common council, once a year, such information as he may deem necessary, and at all times give such information as the common council may require.

Shall appoint police, &c.

Election of president.

SECTION 4. At the first meeting of the common council each year, or as soon thereafter as may be, they shall proceed to elect by ballot one of their number president, and in the absence of the mayor, the said president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability from any cause to discharge the duties of his office, the president shall execute all the powers and discharge all the duties of mayor. In case the mayor and the president shall be absent from any meetings of the common council, they shall proceed to elect a temporary presiding officer, (*and*) who for the time being shall discharge the duties of mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and acts performed by them shall have the same force and validity as if performed by the mayor.

City Clerk—his duties.

SECTION 5. The common council shall elect a city clerk. He shall keep the corporate seal and all the papers and records of the city. He shall attend the meetings and keep a record of the proceedings of the common council. The records of the common council kept by him shall be evidence in all legal proceedings, and copies of all papers filed in his office and transcripts from records, certified by him, under the corporate seal, shall be evidence in all courts in like manner

as if the original were produced. He shall keep a full and accurate account of all orders drawn on the city treasury, in a book provided for that purpose, and shall also keep an accurate account with the treasurer, and charge him with all tax lists delivered to him for collection, and all sums of money paid into the treasury. When the clerk shall be absent from any meeting, the city council may appoint a clerk *pro tem.* The city clerk shall have power and authority to administer oaths and affirmations.

Annual statement.

SECTION 6. On or before the last Monday in April in each year, the city clerk shall make out a statement showing the amount of money received into the treasury during the year ending upon that day, from what source such money was derived, and also the amount of orders drawn on the treasurer, and for what purpose the same was issued, and also showing the total amount of indebtedness of the city, which statement shall be published as soon thereafter as may be, in the newspaper in which the ordinances and by-laws of said city are published.

City treasurer—his duties.

SECTION 7. The treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbusements, in such manner as the common council shall direct. He shall report to the common council as often as required, and annually, at least ten days before the annual election, a full and detailed account of all receipts and expenditures after the date of the last annual reports, and also of the state of the treasury, which statement shall be filed with the clerk.

Further duties may be imposed on officers—compensation.

SECTION 8. The common council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and to fix the compensation of all officers elected or appointed by them. Such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office.

Printing to the lowest bidder.

SECTION 9. The common council shall annually provide that all printing authorized and required by them to be done for their use or for the city, shall be let by

CHAPTER 78.

contract to the lowest bidder, for the term of one year, but no bid therefor shall be considered unless made by the publisher of a newspaper printed and published in the city of Mineral Point, unless the bids of such publishers shall be higher than the rates of legal advertising, as fixed by law, or unless such publishers shall fail to bid. All ordinances and other proceedings required by this act, or by the by-laws or ordinances of the common council to be published, shall be published in the newspaper selected under the proceedings [provisions] of this section; and the printer of said newspaper shall either in person or by his foreman, file with the clerk of the city, his or their affidavits of the length of time said ordinance, by-law or proceedings have been published, and such affidavit shall be conclusive evidence of the publications of uch notice, ordinance, proceeding or by-law.

Penalty for not delivering books, &c., to successors

SECTION 10. If any person having been an officer in said city shall not, within ten days after notification and request, deliver to his successor in office, all property, moneys, books, papers and effects of every description, in his possession, belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

Peace officers.

SECTION 11. The mayor, sheriff of Iowa county, each and every alderman, justice of the peace, constable and watchman, shall be officers of the peace and [shall] suppress in a summary manner all rioting and disorderly behavior in the limits of the city, and for such purpose may command the assistance of all bystanders, and if need be, of all citizens and military companies. If any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars; and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings. The city constables shall have the same powers and be subject to the same duties as town constables under the law.

Street commissioner—his duties, pay, &c.

SECTION 12. It shall be the duty of the common council at its first meeting after the annual election, or as soon thereafter as may be, to elect a street commissioner, who shall give bonds to the city of Mineral Point conditioned for the faithful discharge of his duty, in such amount as the city council shall direct, and who shall have power, and whose duty it shall be to require every resident of the city, liable to work on the highways by the laws of this state, to perform one day's labor each year on the streets in the ward in which he resides; and in case any person shall neglect or refuse to perform such labor, at such time and place as such commissioner shall direct, to assess, sue for and collect of every such person one dollar in lieu thereof, which shall be expended in improving or repairing the streets of said city by such commissioner; and the said commissioner may at any time be removed from office by the common council of said city, and another commissioner appointed in his stead: *provided*, that no member of the common council shall be permitted to hold the office or perform any of the duties of the street commissioner. The compensation of the street commissioner shall be fixed by the common council, and the same shall be paid out of the road tax.

CHAPTER FOUR.

THE COMMON COUNCIL, ITS GENERAL POWERS AND DUTIES.

Style of ordinances—quorum.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "the common council of the city of Mineral Point do ordain," &c. The common council shall meet at such time and place as they by resolution shall direct. A majority of the aldermen shall constitute a quorum.

Stated and special meetings.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings by notice to each of the members, to be served personally or left at their usual places of abode. The common council shall determine the rule of its own proceedings and be the judge of the election and qualifications of its own members, and have power to compel the attendance of absent members.

Council to have control of finances, to make and enforce ordinances, &c.

SECTION 3. The common council shall have the control and management of the finances and of all property

CHAPTER 72. of the city, and shall likewise, in addition to the powers herein vested in them, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime and for the benefit of trade, commerce and health, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law, by commitment to the common jail of Iowa county, or otherwise; and such ordinances, rules and by-laws are hereby declared to be and have the force of law; and for these purposes the common council shall have authority by ordinances, resolutions or by-laws:

License showmen, &c.

1st. To license and regulate peddling, the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables and bowling saloons, and to pro-

Nuisances.

vide for the abatement and removal of all nuisances, under the ordinances or at common law, and to grant

License to sell liquors.

licenses for selling spirituous, vinous or fermented liquors, and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof: *provided*, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of the state, and that no license shall be granted for a less time than one year; *and provided, further*, that no person thus licensed shall sell or give away spirituous, fermented (or vinous) liquors on election days.

Gaming.

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming, in said city, and to restrain any person from vending, giving or dealing in spirituous or vinous liquors, unless duly licensed by the common council.

Riots, &c.

3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for purposes of gaming.

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city. Nuisances.

5th. To direct the location and management of slaughter houses and markets, and to prevent the erection, use or occupation of the same, where the offal or filth therefrom shall discharge into streams of water, and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of the same, or other combustible material. Slaughter houses and gun powder.

6th. To prevent the encumbering of the streets, sidewalks, lanes and alleys, with carriages, sleighs, boxes, lumber, firewood or any other materials or substances whatever. Encumbering streets.

7th. To prevent horse-racing, immoderate riding in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city. Horse racing and bathing.

8th. The common council of the city of Mineral Point shall have authority, by ordinances, to restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same; and also to prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinance: *provided, always*, that any ordinance passed in pursuance of this section shall, before it takes effect, be submitted to a vote of the legal voters of said city of Mineral Point at a general or special election, and if a majority of the votes cast at such election be returned "for the ordinance," the ordinance shall thereupon take effect, but if a majority of the votes cast at such election be returned "against the ordinance," the ordinance shall be null and void and of no binding effect whatever: *provided, further*, that such ordinance shall, before said election, be published in some paper printed in the city of Mineral Point, with a notice annexed of the time and place of voting upon the same. Animals running at large. Ordinance to be submitted to vote.

9th. To prevent any person from bringing, depositing or having within said city, or placing in the waters adjacent to the said city, any putrid carcass or other Putrid carcasses, &c.

CHAPTER 78.

unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, or on [in] default, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Pounds, water works, hacks, &c

10th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants of the city; to regulate and license hacks, cabs, drays, carts and the charges of hackmen, cabmen, draymen and cartmen in the city, and to erect lamps, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Boards of health

11th. To establish and regulate boards of health, provide hospital and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and to exempt burial grounds set apart for public use from taxation.

Bread.

12th. To establish the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding on sidewalks.

13th. To prevent all persons riding or driving any horse or mule, cattle or any other animal on the sidewalks in said city, or in any way doing any damage to said sidewalks.

Firearms, fireworks, &c.

14th. To prevent shooting of fire arms or crackers, and to prevent the exhibition of fire works in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to the citizens thereof.

Drunkenness, &c in streets.

15th. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners.

16th. To restrain and regulate runners and solicitors for stages, cars, public houses and other establishments.

Police.

17th. To make rules and ordinances for the government and regulation of the police of the city.

Markets.

18th. To establish public markets and make rules and regulations for the government of the same, to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for interrupting or interfering with the due observance of such rules and regulations, to license and regulate

butchers' stalls, shops and stands for the sale of game, poultry, meats, fish and other provisions.

Hay, fuel, &c.

19th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same.

Cleaning sidewalks, &c.

20th. To compel the owners of building or grounds, or the occupants, where the same are occupied, to remove snow, dirt or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in default, to authorize the removal or destruction of the objectionable substances by some officer of the city, at the expense of such owner or occupant.

Contagious diseases.

21st. To regulate, prevent and control the landing of persons from cars and stages, wherein are contagious and infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of the city.

Auctions.

22d. To regulate the time, place and manner of holding public auctions or vendues.

Watchmen.

23d. To appoint watchmen and prescribe their duties.

Weights, &c.

24th. To provide by ordinance for a standard of weights and measures, and for the punishment of false weights and measures.

Shade trees.

25th. The common council shall have power to require the owner of any lot or grounds in the city to set out ornamental trees in the street or streets fronting the same, and in default thereof, to cause the same to be done, and to levy a special tax upon such lot or grounds to pay the expense of the same.

How ordinances, &c., passed.

SECTION 4. All laws, ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published in a paper or papers, to be selected by the council, printed in said city, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk, in books to be provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof respectively within the same time shall be proved by the affidavit of the foreman or publisher of each newspaper,

CHAPTER 78. and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

Common nuisances. SECTION 5. The power conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous and fermented liquors are sold without the license required therefor, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances.

City accounts. SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, and all other officers and agents of the city, at such time as they may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired; and the common council shall require each and every such officer and agent to

Exhibit books and vouchers. exhibit his books, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of their said duties in pursuance of this section, or shall neglect or refuse to render his accounts or present his books and (*and*) vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant, and the common council shall order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

CHAPTER FIVE.

OPENING OF STREETS, &C.

Streets, walks, &c. SECTION 1. The city council shall, within the city limits, have full power and authority to lay out, alter or discontinue any highway, street, alley or public walk therein, and to grade, pave or otherwise improve the same as it shall deem necessary or advisable: *pro-*

vided, that no street, lane or alley shall be laid out by said council, except as hereinafter provided, unless the owner or owners of lots through which the proposed alley, lane or street is proposed to be laid out, consent thereto in writing.

Petition to be presented.

SECTION 2. No highway, street, lane or alley or public walk shall be laid out or altered, unless a petition, signed by at least six resident freeholders of the city, shall be presented to said council, asking therefor, and accompanied by a proper plan or diagram and survey of the premises proposed to be taken, and if the same requires the taking of private property for public use, against the consent of the owners, not until the necessity thereof shall be first established by the verdict of a jury.

Give notice of application.

SECTION 3. On presenting such petition, if it shall appear that private property is required to be taken against the consent of the owners, the city council shall cause a notice of such application to be given to the owner or owners of plats through or upon which the proposed street, highway, alley or lane is to be laid out, which said notice shall be by publication or otherwise, as the council shall order, and shall state that on a certain day, therein to be named, a jury will be summond by any constable to hear and decide upon such application and the necessity of taking such property.

Summoning jury —jury to view premises.

SECTION 4. On or before the day named in such notice, the mayor, or in his absence, the acting mayor of the city, shall issue a venire, directed to the sheriff or any constable of the city, requiring him to summon a jury of twelve disinterested residents of said city, qualified to serve as jurors in courts of record, who have no interest in the premises proposed to be taken, and are in no wise of kin to any person interested therein, whose duty it shall be to view the property proposed to be taken, and hear such proof as may be offered by any person in relation to the same. Such witness may be sworn by any one of the jurors, and the jurors themselves shall be sworn.

Vacancies in jury

SECTION 5. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the mayor shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the venire.

CHAPTER 78.

When new venire may issue.

SECTION 6. If such jury does not agree, new venires may be issued until a jury is found that does agree. When the jury agrees, it shall make out the verdict in writing, sign the same and deliver [it] to the constable or sheriff, who shall deliver the same to the city clerk to be filed.

Verdict of jury.

SECTION 7. If the jury shall have returned a verdict that it is necessary to take private property for public use, as required by said petition, the city council may thereupon cause said highway, street, lane, alley or walk, to be laid out or altered, if the council shall deem it advisable, and thereupon shall cause the same to be recorded, and an order to be entered confirming said verdict.

Commissioners to appraise property, &c.

SECTION 8. The city council shall thereupon, by an order, appoint three disinterested freeholders of the city, commissioners to view and examine the proposed highway, street, alley, lane or walk, or alteration thereof, and ascertain and appraise the just value of the property of the individuals necessary to be taken therefor. They shall also ascertain and appraise the necessary cost and expenses and damages for laying out, opening or altering the same, and make report thereof under oath to the city council within such time as may be limited by such order. If any of said commissioners refuse or neglect to act as such, or if any commissioners do not agree as to the amount of damages or benefits done to any person, then the said council shall report other commissioners in their places.

To apportion expense.

SECTION 9. The commissioners shall also view, ascertain, assess, determine and report to the city council what property, lots and parcels of land are or will be benefited by the laying out, opening or alteration of any such highway, street, lane, alley or public walk, and assess, designate and apportion and determine the costs, expenses and damages of laying out, taking, opening or altering of the same on the property, lots and parcels of land so benefited, in just proportion, making out a list thereof as they shall assess and apportion the same.

Strike a balance.

SECTION 10. The commissioners, in all cases where property, lots or parts of lots shall be taken, shall assess the benefits thereof to the other parts of said property or lots, and make out a list thereof, and shall strike the balance between the damages and benefits so

assessed, and make out a list of the same and report the same to the city council.

Meeting to hear proofs.

SECTION 11. The commissioners shall immediately after their appointment, and before proceeding to discharge their duties as aforesaid, give notice in one or more newspapers of the city, of at least one week, of the time and place in which they will meet to hear any proofs or allegations of any person interested therein; and at the time and place so mentioned, they shall meet for that purpose, and may adjourn from time to time, as they may regard reasonable, but not beyond the time limited in the order for making their report, and either of said commissioners shall have power to administer an oath to any witness offered.

Appeal.

SECTION 12. Any person whose property is taken, or against whom any assessment is made, may, within ten days from the return of such commissioners to the council, appeal from said assessment of damages or benefits, to the circuit court of Iowa county: *provided*, such person or some one in his behalf, makes affidavit that he believes himself injured by the award of said commissioners, and that the appeal is made in good faith, and not for the purpose of delay. The appellant shall give security for costs, and the appeal shall be tried by the court and jury, as in ordinary cases. The council shall have the same right of appeal.

When report affirmed.

SECTION 13. If no appeal is taken, or if taken, and the report of the commissioners affirmed or modified, the council may order the proceedings of the commissioners, as reported or as modified by the court, confirmed.

Payment of damages.

SECTION 14. No such highway, street, lane, or alley or walk, or alteration thereof, shall be laid out, opened or made, until the owners of property which has been taken against their consent, shall be paid the amount or balance so assessed or awarded in their favor.

Assessments a lien.

SECTION 15. All sums so assessed and confirmed, shall be a lien upon the property so assessed and apportioned, and for the payment of which, such property, lots or parcels of land, shall be liable, and the same may be collected with and as other taxes are collected in said city.

Altering streets, &c.

SECTION 16. In all other cases the council may lay out, alter or discontinue any highway, street, lane, alley or walk, whenever it deems the same proper and

CHAPTER 78.

advisable, by an order entered in their proceedings, specifying and describing the same: *provided*, the same is applied for by petition, as mentioned in the second section of this act, [chapter,] and two weeks' notice of the same shall have previously been published in a newspaper in said city.

How to proceed if buildings on land.

SECTION 17. If there should be any buildings standing whole [wholly] or in part upon the lands to be taken, the commissioners, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to such owner or owners, aside from the value of the lands, and the injury to such owner or owners in having such building taken from him or them, and, secondly, the value of such building to remove.

Notice to owner or agent.

SECTION 18. At least ten days' notice of such determination shall be given to such owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all persons interested shall be given by publication in the official paper three successive weeks. Such notice shall specify the building and the award or determination of the commissioners. Said notice shall also require the parties interested to appear by a day to be therein named, or give notice of their acceptance of the award of the commissioners, and allow such building, with the land appropriated, to be taken, or their intention to remove such building at the rate set thereon by the commissioners. If the owner elects to remove such building, he shall have such time for that purpose as the council shall allow.

Building to be sold if not removed.

SECTION 19. If the owner refuses to remove the building or to take the same at the valuation, or fails to give notice of his election as aforesaid, within the time prescribed, the council shall have power to direct the sale of such building at public auction, giving ten days' notice of sale. The proceeds shall be paid to the owner or deposited to his use, after deducting costs of removal and sale.

If damages not paid within three months, proceedings void.

SECTION 20. The damages assessed as aforesaid, together with costs and expenses of opening, altering or laying out such highway, alley, street, lane or walk, shall be paid by the owners or holders of property benefited thereby; and if not paid within six months from the confirmation of such assessments and reports, all the proceedings in such case shall be void; and in

all cases the common council shall require the applicants to give security for costs, (to be approved by the mayor,) which shall be filed with the city clerk before the giving of the notice provided for in section number three of this chapter.

CHAPTER SIX.

IMPROVEMENT OF STREETS.

Grades.

SECTION 1. Upon application in writing of the resident owners of three-fourths of the lots upon any street, or upon that part of any street in which the grade is proposed to be changed, the common council shall have power to cause a survey to be made, and to alter such grade or establish a new one, in such street or part of street, set out in such application, as the public good may seem to require.

Action for damages.

SECTION 2. Any person, not being a signer of such application, who shall claim to have sustained damage by such change of grade, shall have his right of action against the city for the recovery of the same: *provided*, that no suit shall be brought against the city for the recovery of such damage until application has been made to the common council, and said council shall have refused or neglected for three months to settle the same. The signing of such application shall be taken and construed as a release of all claims for damages of every such signer.

Duties of street commissioner.

SECTION 3. It shall be the duty of the street commissioner to see that all ordinances of the city relating to the obstruction and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers and water courses, within their respective wards, are duly observed and kept, and direct and control the persons employed therein. The street commissioner shall have a general supervision over all work let by contract, for the improvement of streets or sidewalks in their respective wards, unless the common council shall otherwise provide. Each street commissioner shall annually report to the common council a correct statement of all moneys by him collected under the provisions of the fourth section of this chapter, and the manner of expending the same.

CHAPTER 78.

Construction of sidewalks, &c.

SECTION 4. Sidewalks shall be constructed upon the proper established grade of any street in said city, of such width, in such manner, of such materials, and in such time as the common council by ordinance, resolution or order shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, the common council may cause the same to be constructed at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest bidder, and notice shall be given by publication in the official paper of the city for at least ten days, of the time, place and manner of securing such bids. The common council shall levy a special tax upon each lot or piece of ground in front of which any sidewalk shall be constructed by contract, sufficient to pay the cost of constructing the same: *provided*, that no such contract shall be let until sixty days after notice shall have been given to such owner or owners, of the ordinance, resolution or order, requiring the construction of such sidewalk, by the publication of the same at least ten days in the official paper of the city.

Moneys to be used on streets.

SECTION 5. All moneys expended by the common council in the improvement of streets, (sidewalks excepted,) shall be expended upon the streets in the several wards in proportion to the relative value of taxable property assessed in the several wards, unless the common council shall otherwise unanimously direct.

Annual tax.

SECTION 6. The common council of said city shall have power to levy an annual tax, not exceeding three mills on the dollar of the assessed value of property in said city, for the improvement of streets, and may, by resolution, determine the time and manner of collecting and paying the same.

CHAPTER SEVEN.

FINANCES AND TAXATION.

Council to control finances.

SECTION 1. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor, countersigned by the

clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasurer shall specify the purpose of [for] which they are drawn, and shall be payable generally out of any funds in the treasury belonging to the city; and all such orders shall be received in payment of any debt or demand due to, or tax or assessment levied by authority of the city, except taxes levied for school purposes.

How debts may be contracted.

SECTION 2. No debt shall be contracted against the city or order drawn upon the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same shall be entered by ayes and noes upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act.

Forfeitures and penalties.

SECTION 3. All forfeitures and penalties accruing to the city for a violation of this act or of any part of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become part of the general fund, except as otherwise provided by this act. No penalty or judgment recovered in favor of the city, shall be remitted or discharged, except by a vote of two-thirds of all the aldermen elect.

Taxable property.

SECTION 4. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessor elected under this act, shall have and possess the same powers, and be subject to the same duties and liabilities, that are or may hereafter be conferred or imposed upon township assessors: *provided, however*, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors, [assessor,] and make such rules and regulations in relation to revising, altering or perfecting such rolls as they may from time to time deem advisable.

Council to determine amount of taxes to be levied

SECTION 5. Within ten days after the receipt by the city clerk of the statement of the amount of taxes levied by the county board of supervisors, as provided by law, the common council shall determine the amount of taxes to be levied for general city purpose, [purposes,]

CHAPTER 78.

and also the amount of money necessary or required to be levied for school purposes, and shall by resolution levy the same; but no such resolution shall be adopted, except by a vote of two-thirds of the members elect, which shall appear in the proceedings of the common council: *provided*, that the amount of tax levied for the general expenses of the city, shall not exceed one hundred dollars.

Taxes, &c., to be a lien.

SECTION 6. All taxes or assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and upon all personal property of any person or body politic, assessed for personal taxes, from the date of the warrant for the collection thereof until such taxes shall be paid, and no sale or transfer of such real or personal property shall affect such lien. Any personal property belonging to the person taxed, may be taken and sold for the payment of taxes upon personal property.

County equalization.

SECTION 7. The board of supervisors shall have the right to regard the city of Mineral Point as a town, in equalizing the assessment rolls of the several towns in said county, as provided by law; but in such equalization, shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

City to be taxed as a town.

SECTION 8. The said board of surpervisors may levy a tax or taxes as now is or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk in the manner provided by law in relation to towns and town clerks, and in all transactions of the board of supervisors of said county, said city shall be recorded as a town except as herein otherwise provided.

Clerk to make out statement of taxes, &c.

SECTION 9. The city clerk shall deliver to the city treasurer a certified statement of [the] amount of taxes apportioned and a copy of [the] assessment roll, with a warrant in manner and form as required of town clerks by the laws of this state, and shall otherwise be subject to the same duties and liabilities in the premises. He shall also preserve a duplicate of such certified statement, and file the same among the records of his office, which shall have the same legal force and effect as the records

of the common council, and shall be *prima facie* evidence in every court of record in this state, that every act or thing required by law to be done relating to assessing or levying of taxes, from the election of officers to the completion of the tax list inclusive, has been done regular, correct and as required by law.

Treasurer to collect his fees, &c.

SECTION 10. The city treasurer shall proceed to collect, under the warrant so issued, in like manner and shall have like powers and be subject to like duties, liabilities and restrictions as town treasurers. The city treasurer shall receive two per cent. fees upon all taxes paid to him before the first day of January, and five per cent. fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, and two per cent. upon all other moneys paid into the treasury, which shall be in full for all services performed by said treasurer under this act or the ordinances of the city. The said treasurer shall also, at the time of making his return to [the] county treasurer, make out and deliver to the city clerk, a list of delinquent personal property taxes for the same year. The county treasurer shall add the same interest, penalties or fees to such delinquent returns as allowed or required by law upon delinquent returns from the several towns.

County treasurer to sell delinquent lands.

SECTION 11. The county treasurer shall sell all delinquent lands and lots returned from the city of Mineral Point at the same time and in the same manner as other delinquent lands are sold in said county.

When exempt lands taxable.

SECTION 12. All real estate exempt from taxation by the laws of this state, shall be subject to all special taxes for the building of sidewalks and improvement of streets in front of the same.

CHAPTER EIGHT.

COMMON SCHOOLS.

City to constitute school district—control and management

SECTION 1. The city of Mineral Point shall constitute one school district, under the control and management of a board of education, to be composed of the city superintendent, *ex officio*, who shall be president of the board, and one commissioner from each ward, to be appointed by the common council at their first annual meeting, to hold their offices for the term of two years.

CHAPTER 78. Said commissioners may be removed from office for official misconduct or willful neglect of duty, by the city council, by a vote of two-thirds of the members thereof, a fair hearing having been granted before removal.

Commissioners—oath of office—to appoint clerk &c

SECTION 2. Said commissioners shall, within ten days after their appointment, take the oath of office prescribed by the constitution of this state, and file the same with the city clerk., At their first meeting they may appoint one of their number clerk, or if advisable, some other person, to hold his office during the pleasure of said board, who shall receive such compensation as said board may determine. The said commissioners shall receive no compensation for their services.

Duties of clerk.

SECTION 3. The clerk of said board shall keep a record of the proceedings thereof, and perform such other duties as the board may prescribe, which record, or transcript thereof, certified by the president and clerk, shall be received in all courts as *prima facie* evidence of the facts therein set forth; and such records and all the books and accounts of the said board shall at all times be subject to the inspection of any member thereof.

Council may levy taxes for school purposes.

SECTION 4. The city council of the said city of Mineral Point shall have the power, and it shall be their duty, to raise, from time to time, by tax upon the real and personal estate in said city subject to taxation, in addition to the amount of school moneys now or hereafter appropriated or provided by law for common schools in said city, such sums as may be determined and certified by said board of education to be necessary and proper for any or all of the following purposes:

School sites.

1st. To purchase, lease or improve sites for school houses.

School houses, &c.

2d. To build, purchase, lease, enlarge, alter, improve and repair school houses and their out-houses and appurtenances.

School apparatus, &c.

3d. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages; but the power herein granted shall not be deemed to extend to the furnishing of class or text books for any scholar whose parent or guardian shall be able to furnish the same.

Fuel, &c.

4th. To procure fuel and defray the contingent expenses of the common schools and the expenses of the school library of said city.

5th. To pay wages of teachers due after the application of the public moneys which may by law be appropriated and provided for that purpose: *provided, however*, that no tax shall be laid for such purpose oftener than once in each year; *and provided, also*, that the amount to be raised for teachers' wages, and for contingent expenses in any one year, shall in no case exceed twice the amount of public moneys received during the previous year, nor less than one-half the amount received by said city for school purposes from the income of the school fund; and that the amount to be raised in one year for buying sites and erecting and repairing school houses and the appurtenances, shall not exceed one thousand dollars, save as excepted in the seventeenth section of this chapter.

Teachers' wages.

Limit of tax.

SECTION 5. The city council shall cause the tax or taxes herein provided for, to be levied and collected annually, in the same manner as annual taxes are levied and collected in said city, and all moneys so collected and all school moneys appropriated by law to, or provided for said city, shall be paid to the treasurer of said city, who, together with the sureties upon his bond, shall be accountable therefor, in the same manner as for other moneys of said city.

How collectable, &c.

SECTION 6. After this act shall go into operation, the treasurer of said city shall not pay out any moneys in his hands, received by the said city, either as school moneys or collected or received by virtue of any provision of this chapter, excepting upon an order drawn upon him, signed by the president and clerk of said board of education, and no such order shall be drawn except by virtue of a resolution of the said board.

How treasurer to pay out moneys.

SECTION 7. The said board may cause a suit or suits to be prosecuted in the name of the city of Mineral Point, upon the official bond of the treasurer, or of any collector of said city, for any default, delinquency or official misconduct in relation to the collection, safe keeping or payment of any moneys in this act mentioned.

Suits against delinquents.

SECTION 8. The said board shall have power, and it shall be their duty:

Powers of board.

1st. To establish and organize such, and so many schools, in the several wards of said city, as they shall deem requisite and expedient, and to alter and discontinue the same: *provided*, that the system of graded or

Schools.

CHAPTER 78.

union schools shall be adopted as the foundation of all such schools.

School houses, &c.

2d. To purchase or hire school houses and rooms, and lots or sites for school houses, and to fence or improve them as they deem proper.

Build, enlarge, &c.

3d. Upon such lots and upon any sites now owned by the village or school district number one in the town of Mineral Point, to build, enlarge, alter, improve and repair school houses, out-houses and appurtenances as they may deem advisable.

Books, &c.

4th. To purchase, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools, and to defray their contingent expenses and the expenses of the district library.

Custody of houses, &c.

5th. To have the custody and safe keeping of the school houses, out-houses, books, furniture and appendages, and to see that the ordinances of the city council in relation thereto, are observed.

Teachers.

6th. To contract with and employ all teachers in the common schools and the high schools who shall have been licensed by the superintendent, and at their pleasure to remove them.

Pay teachers.

7th. To pay the wages of said teachers out of such funds provided for that purposes, as may be in the treasury of the city.

Contingent expenses.

8th. To defray the contingent expenses of the board, including the salary of the clerk: *provided*, the account of such expenses shall first be audited and allowed by the city council.

Control of schools.

9th. To have the entire supervision and control of the common schools in said city, and to regulate the manner of receiving pupils, and their transfer from one school to another, and to adopt rules for their own government.

May sell houses, &c.

10th. Whenever said board deem it advisable to sell any of the school houses, lot or sites, or any of the school property now or hereafter belonging to the city, to report the same to the city council.

To recommend, &c.

11th. To recommend to the city council any matter in which its action is desirable, and also the amount of money necessary to be raised under the fourth section of this chapter, and the reasons therefor.

Non-resident children.

SECTION 9. The said board may allow the children of non-residents to attend any of the schools of said

city upon such terms as said board shall, by resolution, prescribe, fixing the rate of tuition therefor.

Annual reports.

SECTION 10. It shall be the duty of the said board, on or before the last Monday of March in each year, to prepare and report to the city council a true and correct statement of the receipts and disbursements of moneys under and in pursuance of the provisions of this act, during the preceding year, in which account shall be stated under appropriate heads:

Moneys.

1st. The moneys received by the city under the fourth section of this act.

Received of co. treasurer.

2d. The school moneys received by the treasurer of the city from the county treasurer.

By tax.

3d. The moneys received from direct tax.

Other moneys.

4th. All other moneys received by the treasurer, subject to the order of the board, specifying the sources.

And the city council shall cause the same to be published.

Subject to state superintendent.

SECTION 11. The said board shall be subject, from time to time, to the rules and regulations made by the state superintendent of common schools, so far as the same may be applicable to them and not inconsistent with the provisions of this act.

Duties, &c., of superintendent.

SECTION 12. The city superintendent shall be the executive officer of the board of education; shall examine all teachers making application for schools in the presence of the board; shall grant certificates to such persons so examined as shall be deemed by him and a majority of the board, suitably qualified, and shall carry into effect the ordinances of the common council, and the rules and regulations of the board in reference to the public schools. He shall also be specially charged with the care and custody of the several school houses of the city, and under the direction of the board, shall superintend the building and repairing of all the school houses ordered to be erected or repaired by them, unless otherwise directed. In addition to the foregoing duties, he shall visit the common schools of the city at least twice during the term, and report their condition to the board, with such suggestions for their improvement as he may deem proper. His compensation shall be fixed by the common council of the city, and shall be paid out of the contingent school fund of the city.

Compensation.

To make annual report.

SECTION 13. It shall be the duty of the city superintendent, between the first and fifteenth days of Octo-

CHAPTER 78.

ber in each year, to make and transmit to the clerk of the board of supervisors of the county a report in writing, setting forth such facts as are now required by law to be included in the report of school district clerks.

Duty of council in regard to schools.

SECTION 14. It shall be the duty of the city council to pass such ordinances as may be necessary for the protection and preservation of the school houses, lots, sites and appurtenances, and to impose proper penalties for violation of the same. Such penalties to be collected as other penalties for the violation of other city ordinances, to be paid to the city treasurer, subject to the order of the board of education.

Title to school houses, &c.

SECTION 15. The title of the school houses, lots, sites, furniture, books, apparatus and appurtenances and all other property now belonging to the city of Mineral Point, whether vested therein by the acts to which [this] is amendatory or otherwise, and such as may be hereafter acquired, shall remain and continue to be vested in the city of Mineral Point, and the same may be sold by the common council of said city upon application of the board of commissioners, upon such terms as said city council may deem advisable. The same while used or appropriated for school purposes, shall not be levied upon or sold by order of any warrant or execution, nor be subject to taxation for any purpose whatever; and the said city, in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise, for the use of the common schools of said city, whether the same be transferred to said city by its proper style, or by any other designation, or to any person or persons or body, for the use of said schools.

How moneys held and drawn.

SECTION 16. All moneys required to be raised by virtue of this act, or being raised as herein provided, shall be held by the treasurer of said city, and by him placed to the credit of the said board of education, and shall be drawn out in pursuance of a resolution or resolutions of said board, by drafts drawn by the president and countersigned by the clerk of said board, payable to the order of the person or persons entitled to receive such moneys; and said treasurer shall keep the funds authorized by this act to be received by him, separate and distinct from any other fund that he is or may be by law authorized to receive.

SECTION 17. The common council of said city shall have no power or authority to borrow any sum of money for the purpose of procuring sites and erecting a suitable edifice or edifices for the uses of the schools thereof, except as hereinafter provided. Whenever a majority of the common council shall deem it expedient to make a loan for such purpose, the said council may authorize a special election to be held or a vote of the legal voters of said city to be taken at a general city election, when the voters of said city shall vote "for the loan" or "against the loan," and if a majority of the votes cast at such election be returned "for the loan," the city council shall have power to effect a loan, as provided in section seventeen of chapter eight of the "act to incorporate the city of Mineral Point," approved March 2, 1857: *provided*, that the common council, before such vote of the legal voters of said city, shall give ten days' public notice of the amount proposed to be borrowed and the time and place of holding the election.

Council may draw money for school purposes, &c.

SECTION 18. It shall be the duty of the city clerk immediately after the appointment of any person as commissioner of common schools or election of city superintendent, personally to notify him of his appointment or election, and if any such person shall not, within ten days after receiving such personal notice of appointment, take and subscribe to the constitutional oath, and file the same with the city clerk, the city council may consider it a refusal to serve, and proceed to supply the vacancy occasioned by such refusal.

Duty of clerk when commissioner is appointed.

CHAPTER NINE.

FIRE DEPARTMENT.

SECTION 1. The common council, for the purpose of guarding against the calamity of fire, shall have the power to prescribe the limits within which wooden buildings or other materials that shall not be considered fire proof, shall not be erected or repaired, and to direct that all and any buildings, within the limits prescribed, shall be made and constituted of fire proof materials, and to prohibit the repairing of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage.

Powers of council regarding struction of buildings.

CHAPTER 78.

To regulate construction of chimneys, &c.

SECTION 2. The common council shall have power to regulate the building, construction and condition of chimneys, fire places, hearths, stoves, stove pipe, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire, and to regulate and prevent the carrying on of any manufactories dangerous in causing or promoting fires; to compel the owners or occupants of buildings to have scuttles in the roof and stairs and ladders leading to the same; to authorize the mayor and aldermen, fire wardens and other officers of the city to keep away from the vicinity of a fire, all idle and suspected persons, and to compel bystanders to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and, generally, to establish such regulations for the preservation [prevention] and extinguishment of fires as the common council may deem expedient.

Purchase of engines, organization of fire companies, &c.

SECTION 3. The common council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded and their meetings to be prohibited and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men between the ages of fifteen and fifty years, and may elect its own officers and form its own by-laws, not inconsistent with the laws of this state or the ordinances and regulations of said city, and shall be formed only by voluntary enlistment. Every member of each company hereby authorized to be formed, shall be exempt from highway work, poll tax, from serving on juries and from military duty, during the continuance of such membership.

Exemption of members.

Annual meeting of companies.

SECTION 4. There shall be a meeting of the members of said companies on the third Monday in March in each year, at such place as may be designated by the mayor, when they may nominate and recommend to the common council for appointment one chief engi-

neer and their [three] assistant engineers, and the common council shall thereupon confirm such nominations, and the persons so appointed shall perform such duties as the common council shall prescribe.

Fire wardens.

SECTION 5. At the same time the members of said company shall nominate and the common council shall appoint the same, four (*first*) fire wardens, one of whom shall reside in each ward, and who shall perform such duties as the common council shall prescribe, and they may at any time enter into or open any house, store-house or other building or enclosure, for the purpose of inspecting the same and with a view to guard against fire.

How fines disposed of.

SECTION 6. One half of the net proceeds of all fines or penalties recovered for the breach of any ordinance, by-law or regulation, made in pursuance of this chapter, shall be paid to the fire department.

Penalty for refusing to obey officers at fires.

SECTION 7. When any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order to arrest, or direct orally the marshal, constable, watchman or any citizen, to arrest such person and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest and confinement of every person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding fifteen dollars.

Sack company.

SECTION 8. The common council shall have power to organize a sack company, which shall [be] known as sack company No. 1, to consist of not more than twenty members. Such company shall constitute a part of the fire department, and [at] fires shall be under the control of the chief engineer. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Mineral Point, and are hereby vested with all the power and authority which now is or may hereafter be vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires they shall

Powers.

CHAPTER 78.

take charge of all property which may be exposed or endangered, and shall, so far as it may be in their power, preserve the same from injury or destruction. Said company may, from time to time, adopt such by-laws and regulations as they may deem necessary, not inconsistent with this act and the laws of this state.

No pay.

The members of said company shall not be entitled to any pay or compensation for services rendered in their official capacity.

Riots.

They shall, in case of riot or disturbance of the peace, have free access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

Oath.

The members of said company shall severally take an oath or affirmation, that they will faithfully discharge the duties of their office, and when any member of said company shall cease to be a member thereof, by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk, who shall preserve a record of all members of said company.

CHAPTER TEN.

MISCELLANEOUS PROVISIONS.

City successor to village.

SECTION 1. The city of Mineral Point shall be and is hereby invested as the lawful owner and successor of all the real and personal property and all the rights and privileges belonging to the corporation of the village of Mineral Point.

Work for city by contract.

SECTION 2. All work for the city or either ward thereof, shall be let by contract to the lowest responsible bidder, and due notice shall be given of the time and place of letting such contract.

Actions against city—how bro't.

SECTION 3. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt, for such penalty or forfeiture, stating the clause of this act or by-laws or ordinance under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Arrest without process.

All prosecutions may be commenced by summons or by warrant, as the exigencies of the case may seem to require: *provided*, that nothing herein contained shall be so construed as to prevent

any peace officer from arresting, without process, any person found in a state of intoxication, or guilty of immoderate drinking, improper reveling, obscenity or noisy, boisterous or disorderly conduct in the streets or public places, and taking such person or persons forthwith before the police justice or keeping them in confinement until such time as said justice can reasonably hear and dispose of such offender.

How executions collected.

SECTION 4. Execution shall issue forthwith on the rendition of judgment, unless the same be staid or appealed, according to the laws of this state. The execution, except in cases ex-contracted, [*ex contractu,*] shall require the defendant in any such action, in case no goods or chattels, lands and tenements, whereof the judgment can be found, to be imprisoned in the jail of Iowa county for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid or discharged by the common council.

Competency of judge, &c.

SECTION 5. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city in any proceeding or action in which the city shall be a party in interest.

Failure to hold election not a loss of franchise.

SECTION 6. If any election by the people or common council shall not, for any cause, be held at the time or in the manner herein prescribed, or if the common council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election or organization may be had on any subsequent day, by order of the mayor; and if any of the duties enjoined by this act or the ordinance or by-laws of the city to be done by any officer at any time specified, are not done and performed, the common council may appoint another time at which said acts may be done or performed.

Service of process against city.

SECTION 7. Whenever any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof, or to take such other proceedings as the ordinances or resolutions of the council may provide.

May hold property.

SECTION 8. Said city may lease, purchase or hold real or personal property sufficient for the convenience

CHAPTER 78.

of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

Not repealing, &c.

SECTION 9. No general law contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose is expressly set forth in such law.

Representation in county board.

SECTION 10. The city of Mineral Point shall be represented in the board of supervisors of the county of Iowa by the mayor of the city, and by one alderman from each ward, who shall be chosen only by the aldermen of the same ward; and it shall be lawful for the mayor and aldermen acting as supervisors, to substitute any other alderman in their stead, should they deem such substitution necessary.

No compensation to mayor or aldermen.

SECTION 11. No compensation or salary shall be paid out of the city treasury to the mayor or any alderman of said city for his services, and they are hereby prohibited from being in any manner interested in any contract made by the authority of said city.

How licenses to issue.

SECTION 12. Every license issued by the authority of this act, or the ordinances of the city, shall be signed by the city clerk and sealed by the corporate seal, but no such license shall be issued by the said clerk until the person applying for the same shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor; nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, until the same shall have been authorized by the common council, and the applicant shall have filed his receipt as aforesaid, together with a bond as required by the laws of this state, which bond shall be approved either by the mayor or common council, and the minimum sum fixed by the laws of this state, to be paid for any such license, shall be paid to the city treasurer in money, and shall be quarter-yearly paid by said treasurer to the treasurer of Iowa county. Every such license shall contain a clause prohibiting the selling, vending or giving away of any spirituous, vinous or malt liquors, on general or special election days.

Sale of liquors on election days prohibited.

SECTION 13. Every person having such license who shall vend, sell or give away any spirituous, vinous or malt liquors on any election day, shall be liable to prosecution under this act or the ordinance of the city, or may be indicted in the circuit court of Iowa county,

and upon conviction thereof, any such offender shall forfeit and pay a sum not exceeding two hundred dollars nor less than fifty dollars, or be imprisoned in the jail of Iowa county, not more than thirty days nor less than ten days, at the discretion of the court, and the license held by such person shall be forfeited and void.

How suits to recover title or possession of any lot may be prosecuted.

SECTION 14. No suit or proceeding shall be commenced or prosecuted to recover title or possession of any lot, piece or parcel of lands, situated within the limits of the city of Mineral Point, held or claimed by virtue of any deed purporting on its face to be executed on account of any sale for taxes or assessment levied after the passage of this act, until the person commencing such a proceeding shall have deposited with the court in which such proceeding is or shall be commenced, for the use of the holder or claimant under such deed, an amount of money equal to the amount of taxes, costs and charges paid in procuring such deed, and all subsequent taxes, costs and charges upon the lot or lands described in such deeds, paid by such holder or claimant, together with twenty-five per cent. interest thereon from the time of such payment to the commencement of such suit or proceeding; and in the event that such deed shall be defeated or impeached on the trial of such cause, the money so deposited shall be awarded to the holder or claimant under such deed, except in cases where the taxes were paid before sale, or the lands redeemed according to law. In the trial of every such cause on the part of the defendant, such deed shall be first read in evidence to the jury, and shall be evidence in such suit or proceedings to the extent specified and provided by the laws of this state in case of tax deeds.

Not subject to execution.

SECTION 15. No real or personal property of any inhabitant of said city or any individual or corporation, shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

Judgment against city, &c.

SECTION 16. When a judgment shall be recovered against said city or any ward thereof, or against an officer of said city, or of any ward thereof, in any action prosecuted by or against him in his name of office, where the same should be paid by the city or any ward thereof, no execution shall be issued or awarded upon such judgment, except as hereinafter provided, but the

CHAPTER 78.

same, unless reversed, shall be levied and collected as other city or ward charges, and when so collected, shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if payment thereof be not made within sixty days after the city treasurer is required to make his return of city or ward taxes, next after the rendition of such judgment, execution may be issued thereon, upon the order of the court authorized to issue such execution on special application therefor.

County jail granted for use of city.

SECTION 17. The use of the jail of Iowa county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe keeping and delivery, the said sheriff shall be responsible as in other cases; but said county shall not incur or pay any liability or expense on account of any person committed to said jail for a violation of any ordinance, by-law, rule or regulation of said city, but such expenses shall be paid by the city.

Paupers.

SECTION 18. The laws of this state, for the relief and support of the poor in towns, shall apply to said city, and the common council shall annually levy such tax as will be necessary to comply with the provisions of such laws. The aldermen of the city shall be overseers of the poor, in their respective wards.

Bonds issued by village.

SECTION 19. All principal and interest upon all bonds which have heretofore been issued by the town of Mineral Point, for railroad stock or other purposes, shall be paid when the same, or any portion of the same, shall fall due, by the city and town of Mineral Point, in the same proportions as if said town and city were not dissolved, such proportions to be apportioned in the same manner as provided in section twenty-one of this chapter, for the payment of money due to the present town of Mineral Point, and in case either town or city shall pay more than their equal and just portion of the same at any time, the other party shall be liable therefor, in action on the case, brought by the party so paying for the same.

Ordinances in force.

SECTION 20. All ordinances and by-laws now in force in said city, shall continue and remain in force until repealed, altered or amended by the common council thereof.

SECTION 21. At the next city election to be held in the city of Mineral Point, on the first Tuesday in April next, the question of the adoption of this amended charter shall be submitted to the qualified voters resident in said city; and for that purpose there shall be provided a separate ballot box for votes cast on that subject. Those voting in the affirmative shall deposite a vote on which shall be written or printed the words "for amended charter," and those voting in the negative shall deposite a vote on which shall be written or printed the words "against amended charter." Vote on charter.

SECTION 22. This act shall take effect from and after its passage and publication; and the same shall cease to be a law or to have effect on the first Tuesday of April next, in case a majority of the votes cast shall be "against amended charter," as provided in the preceding section. Effect.

SECTION 23. An act entitled "an act to incorporate the city of Mineral Point," approved March 2d, 1857, and all acts amendatory thereto, so far as the same contravene or are inconsistent with the operations of this act, or are superseded by the provisions of this act, are hereby repealed. Repeal.

Approved March 16, 1861.

CHAPTER 86.

[*Published April* 22, 1861.]

AN ACT to organize the fourth ward of the city of Appleton, and to change the boundaries of the first and second wards.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. All that part of the territory included within the corporate limits of the city of Appleton, which lies south of the center of the main channel of Fox river, is hereby set off from the first and third wards of said city, and organized into a separate ward to be called the fourth ward of the city of Appleton. Limits.

CHAPTER 86.

Election of officers.

SECTION 2. The legal voters, residing within the limits of the territory aforesaid, shall, at the time of the annual charter election in the year 1861, at such place as the common council of said city shall appoint, elect a justice of the peace, two aldermen, one constable and a county supervisor, for the said fourth ward; and shall at the same time and place cast their votes for mayor, treasurer, assessor and marshal of said city.

Council to appoint inspectors, give notice, &c.

The common council shall previously appoint the inspectors for such election, and cause notice thereof to be given with the general charter election notice as in other wards, and the inspectors so appointed shall by writing under their hands appoint two clerks thereof. Such clerks and inspectors shall before entering on their duties, take and subscribe the constitutional oath; and the election shall, in all other respects, be conducted in the same manner as the annual charter election in the other wards of said city. One of the aldermen so elected shall be chosen to hold the office for one, and the other for two years; and at every annual election thereafter, one alderman shall be chosen, who shall hold his office for two years. There shall be written or printed, or partly written and partly printed, above the name of the person voted for by any elector for alderman for one year, the words "alderman for one year." Every officer so elected shall have and may exercise the same rights and powers, and shall be subject to the same duties and liabilities, so far as relates to the said fourth ward, as similar officers in either of the other wards; and all the provisions of the charter of said city, and of the amendments thereto, and of the laws of the state applicable to the ward officers of the other wards of said city, are hereby declared to apply to the officers that shall be so elected, and to their successors in office.

Apportionment of funds.

SECTION 3. The common council shall, within sixty days after the said election shall be held, apportion the amount of funds levied for ward purposes, in the first and third wards in the year 1860, over and above the amount of expenditures and balances due on contracts for that year for ward purposes, according to the proportion between the assessed valuation of taxable property in each ward on the north side, and that on the south side of the river; and the amount appearing from such apportionment to have been raised on the south

side, shall be a separate fund, to be known as the fourth ward fund, and shall be expended only in the payment of debts thereafter to be contracted by the aldermen of the said fourth ward, or by the street commissioner, for fourth ward purposes.

Boundaries of wards altered.

SECTION 4. That part of the first ward of said city described as lots three (3,) four (4,) and five (5,) in block one (1,) in the recorded plat of Appleton, is hereby taken off from said first ward, and attached to the second ward of said city, and shall be and remain, to all intents and purposes, a part of the said second ward.

SECTION 5. This act shall take effect and be in force from and after its passage.

Approved March 19, 1861.

CHAPTER 93.

[*Published March* 22, 1861.]

AN ACT to amend chapter 133 of the private and local laws of 1858, entitled "an act to amend an act entitled an act to incorporate the village of Elkhorn."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Tax for making and improving streets.

SECTION 1. The sixth section of the act to which this act is amendatory, is hereby amended so as to read as follows: "The supervisors of the said village of Elkhorn shall have power to raise by levying a tax on all the taxable property in said village, for the purpose of making, building, improving and repairing the highways, streets, and bridges in said village, any sum or sums not less than one nor more than ten mills on the dollar, on all such property; and also for the same purpose, to assess a poll tax of one dollar each upon all that description of individuals, residents of said village, liable by law to pay a poll tax in the several towns of this state; and all the taxes levied and assessed in said village for the purposes mentioned in this section, shall be paid in money, and be collected as the other general taxes of said village are collected, and when so

CHAPTER 96. collected shall be paid over to the street commissioner on the order of the supervisors, and by the street commissioner expended under the direction of the supervisors."

SECTION. 2 This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1861.

CHAPTER 96.

[*Published March* 23, 1861.]

AN ACT to revise, consolidate and amend the act to incorporate the city of Oshkosh, and the several acts amendatory thereof.

The People of the State of Wisconsin, represented in Senate and Assembly do enact as follows:

CHAPTER ONE.

CITY AND WARD BOUNDARIES.

City of Oshkosh —charter amended.

SECTION 1. All the district of country in the county of Winnebago contained within the limits and boundaries hereinafter described, shall be a city by the name of "Oshkosh," and the people now inhabiting, and those who shall hereafter inhabit, within the district of country herein described, shall be a municipal corporation by the name of the "city of Oshkosh," and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Boundaries of city.

SECTION 2. The territory included within the following boundaries and limits, shall constitute the city of Oshkosh, to wit: Beginning on the shore of Lake Winnebago, where it is intersected by the section line dividing sections seven (7,) and eighteen (18,) of town-

ship eighteen, north of range seventeen east; running thence west along said line and the continuation thereof until it intersects the center of a public highway, known as the Oshkosh and Winneconne highway; thence north-westerly along the center of said highway, until it intersects the line dividing lots four and five, in section ten, of township eighteen, north of range sixteen east; thence west along said line and the continuation thereof to a point in Lake Butte des Morts, where it meets the continuation of the line dividing the east half from the west half of the north-west quarter of section fifteen, in township eighteen, north of range sixteen east; thence south along said line and the continuation thereof to the south-west corner of the east half of the south-west quarter of said section fifteen; thence east to the south-east corner of the south-west quarter of said section fifteen; thence south to the south-west corner of the south-east quarter of section twenty-seven, in township eighteen, north of range sixteen east; thence east along the section line dividing sections twenty-seven and thirty-four and the continuation thereof to the north-west corner of lot one, in section thirty-six, of township eighteen, north of range sixteen east; thence south along the west line of said lot one to the south-west corner of said lot one; thence due east to a point in Lake Winnebago, where a continuation of the line dividing lots one and two in said section thirty-six, meets the eastern boundary of the county of Winnebago; thence north along said east boundary line of the county of Winnebago, to a point where the said line intersects the eastern continuation of the section line dividing section seven (7) and eighteen (18) of township eighteen (18), north of range seventeen (17) east; thence due west to the place or point of beginning.

Wards.

SECTION 3. The said city shall be divided into five wards, as follows: All that part of said district which lies north of the middle of Fox river, west of the middle of Ferry street and south of the section line dividing section fourteen and twenty-three in township eighteen, north of range sixteen east, and its continuations, shall be the first ward. All that part of said district which lies east of the middle of Ferry street, south of the middle of Washington street and its continuation, and north of the middle of Fox river, shall

First.

Second.

CHAPTER 96.

Third. be the second ward. All that part of said district which lies south of the middle of Fox river, and south of the quarter post line running east and west through sections twenty-two and twenty-three, in township eighteen, north of range sixteen east, shall be the

Fourth. third ward. All that part of said district which lies north of [the] middle of Washington street, and east of the middle of Ferry street, including all of section thirteen of township eighteen, range sixteen, shall be the fourth ward. All the residue of said city shall be

Fifth. the fifth ward.

CHAPTER TWO.

ELECTIONS.

Annual election. SECTION 1. The annual election for ward and city officers shall be held on the first Tuesday of April of each year, at such place in such ward as the common council shall designate, and the polls shall be kept open from nine o'clock in the forenoon till sundown; but the board may adjourn the polls at 12 o'clock noon for one hour; and ten days' previous notice shall be given by the common council of the time and place of holding such elections, and the city and ward officers to be elected.

Elective officers. SECTION 2. The elective officers of said city shall be a mayor, clerk, treasurer, one justice of the peace and one school superintendent for the city, and three aldermen, one assessor [and] one constable for each ward. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council. All elective officers, except justice of the peace, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and qualified: *provided, however*, the

Expulsion, removal, &c. common council shall have power, for due cause, to expel any of their own number, and to remove from office any officer or agent under the city government, due notice being first given to the officers complained of. The justice of the peace shall hold his office for two years, and until his successor is elected and qualified.

Vacancies—how filled. SECTION 3. Whenever a vacancy shall occur in the office of mayor or alderman, such vacancy shall be

filled by a new election, which shall be ordered and held within ten days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The persons [person] elected or appointed to fill any vacancy, shall hold his office and discharge the duties thereof, for the unexpired term, and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Elections by ballot.

SECTION 4. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they shall direct.

Qualifications of voters.

SECTION 5. All persons entitled to vote for county or state officers, and who shall have resided in the city for six months previous to the election, and for ten days within the ward where they offer to vote, shall be entitled to vote for any officer entitled to be elected under this law, and to hold any office hereby created.

Aldermen inspectors of elections.

SECTION 6. The election in said city shall be held and conducted by the aldermen of each ward, who shall be the inspectors of elections, and shall take the usual oaths or affirmations, as prescribed by the general laws of this state to be taken by the judges and inspectors of elections, and shall have the power to appoint clerks of such elections and to administer the necessary oaths. Said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled, as required by the laws of this state regarding elections.

Challenge.

SECTION 7. If either of the inspectors shall suspect that any person offering a vote does not possess the qualifications of an elector, or if such vote be challenged by an elector, the inspector, before receiving the vote of any such, shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be) that you are twenty-one years of age, and that you are a citizen of the United States, (or have declared your intention to become a citizen, conformably to the laws of the United States on the subject of naturalization,) that you have resided within the state

Oath.

CHAPTER 96.

of Wisconsin one year, within the city six months, and within this ward ten days next preceding this election, and that you have not voted at this election, and that you have made no bet or wager, or become directly or indirectly interested in any bet or wager depending on the result of this election;" and if the person offering to vote shall take such oath, his vote shall be received. And if such person shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be liable to indictment, and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes; and if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall not write down the name of every voter as he votes, or shall willfully make untrue and incorrect count and tallies of votes, each and every such inspector and clerk shall be liable to indictment, and on conviction thereof, shall severally forfeit and pay a sum not exceeding five hundred dollars, nor less than one hundred dollars. All such indictments shall be tried in the circuit court of the county of Winnebago.

Punishment for false swearing.

Inspectors to keep list of names challenged.

Returns of elections.

SECTION 8. When an election shall be closed, and the number of votes for each candidate or person voted for, shall be counted and ascertained, the said inspectors shall make a return thereof, stating therein the number of votes for each person, for each and every office; and shall deliver, or cause to be delivered such returns to the city clerk within one week after any election. The common council shall meet and canvass said returns and declare the result, as it appears from the same, and the city clerk shall forthwith give notice to each person elected of his respective election.

Special elections

SECTION 9. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward, in the same manner, and the returns thereof shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance.

Council to fill certain vacancies

SECTION 10. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse for ten days, after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy, as hereinafter prescribed.

First election—who to be elected.

SECTION 11. There shall be elected at the first election under this act, one alderman for each ward, who shall hold his office for two years, and one alderman who shall hold his office for one year, and the alderman elected for two years at the last election under the former city charter, shall hold his office for the term for which he was elected.

One ballot.

SECTION 12. The votes for aldermen and all other elective offices shall be on one ballot, and shall be deposited in one ballot box.

Distinction.

SECTION 13. There shall be written or printed, or partly written or printed, at the head of the votes for alderman for two years, the words, "alderman for two years," and at the head of the votes for alderman for one year, "alderman for one year."

Aldermen for two years members of county board.

SECTION 14. The alderman in each ward elected for two years, shall be, in the order of their [his] election, members [a member] of the county board of supervisors, with all the rights, duties, and liabilities of the chairman of the board of supervisors of the several towns.

May substitute.

SECTION 15. By the consent of a majority of the aldermen of any ward, the alderman for two years may substitute either of the other aldermen in his place, in said board of supervisors, for such time as may be named by him in writing.

Officers now in office.

SECTION 16. All the city and ward officers now in office shall hold their respective offices until their successors shall be elected or appointed under this act; and the term of every officer elected under this law shall commence on the second Tuesday of April of the year for which he was elected, and shall, unless herein

CHAPTER 96.

otherwise provided, continue for one year, and until his successor is elected and qualified.

Present council to perform certain duties.

SECTION 17. All duties herein required of the common council and aldermen in regard to elections, shall be performed, so far as may be necessary, by the present common council and aldermen, in regard to the first election and the organization of the city government under this law.

In case of failure to elect.

SECTION 18. Should there be a failure by the people to elect any officer herein required to be elected, on the day designated, the common council may order a new election to be held, ten days' notice of the time and place of holding the election being first given.

First election—justice.

SECTION 19. The first election of officers under the provisions of this act, shall be held on the first Tuesday of April, A. D. 1861. The election of the justice of the peace under this act, shall be held at the same time and place, and so every two years thereafter; and the justices of the peace now residing in that district of country constituted by this act as the city of Oshkosh, shall hold their offices until their terms of office expire, and their successor is eleeted and qualified.

No change of venue from prejudice.

SECTION 20. Neither the defendant nor his attorney, or other person on his behalf, shall have the right to remove any action, either civil or criminal, from the justice of the peace elected by virtue of this charter, on the grounds and for the reason that, from prejudice, such justice of the peace will not decide impartially in the matter.

When change may be taken.

SECTION 21. In case it shall be sufficiently proved to the satisfaction of said justice of the peace, that he is interested or has been counsel in any civil action pending before him, or that he is near of kin to either party, it shall be the duty of such justice of the peace to transmit immediately all the papers in the case to the county court of Winnebago county, which county court shall try the action between the parties in the same manner as if the same had come into said county court by appeal. And the plaintiff shall pay to such justice of the peace, on such removal, the sum of seventy-five cents for transmitting such papers, and the sum of one dollar for state tax; and the clerk of the county court shall receive and file the papers in such case.

When cause shall be tried by jury.

SECTION 22. If, after joining issue in any action pending before such justice, and before any witness is sworn therein, either party, his agent or attorney, shall make affidavit that such justice is a material witness for such party in such action, without whose testimony he cannot safely go to trial, and shall file the same with such justice, the party so making and filing such affidavit, must at the time of filing thereof, deposit with such justice the sum of one dollar and fifty cents for jury fees. The said justice shall then cause a jury to be called and impanneled, as in other justice courts, and said action shall be tried by such jury, and the said justice shall render judgment therein on the verdict of such jury, and if said party require that said justice shall be sworn as a witness in such case, any person who, by the laws of this state, is authorized to administer oaths, shall administer the proper oath to such justice, who shall testify in the case, the same as other witnesses.

Additional costs.

SECTION 23. In all actions brought before such justice, wherein an issue shall be joined and a trial had thereon, there shall be allowed to the prevailing party two dollars for such trial in addition to the costs now allowed in trials before justices of the peace, and the same shall be taxed in the bill of costs against the losing party.

CHAPTER THREE.

OFFICERS—THEIR POWERS AND DUTIES.

Oath and bond of officers.

SECTION 1. Every person elected or appointed to any office under the provisions of this act, except the justice of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the clerk of the city; and the treasurer, clerk, marshal, constables and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Oshkosh a bond, with at least two sureties, who shall swear that they are worth in the aggregate the penalty specified in said bond, over and above all debts, exemptions and liabilities; and said bonds shall contain such penal sum and such conditions as

CHAPTER 96.

the common council may deem proper; and they may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

Mayor to preside.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council, and take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The

To be chief of police.

mayor shall be chief executive officer and head of the police of the city, and in case of a riot or other disturbance, he may appoint as many special or temporary constables as he may deem necessary. The mayor shall have a vote only in case of tie. The mayor shall

To have power to veto.

have power to veto any ordinance or resolution passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the council in any day after the passage of the same and before the expiration of said seven days, such notification shall be made by filing with the city clerk a copy of his objections. And in case the council shall not, within one week after receipt of such objections, or such filing with the clerk, re-enact such ordinance, or pass such resolution, by the votes of two-thirds of the aldermen elect, the same shall be null and void. No ordinance or resolution shall take effect until one week after the passage of the same.

Election of president—his duties

SECTION 3. At the first meeting of the common council each year, they shall proceed to elect, by ballot, one of their number president, and in the absence of the mayor, the said president shall preside over the meeting of the common council, and during the absence of the mayor from the city, or his inability, for any reason, to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor, except the signing of city orders. In case the mayor and the president shall be

President *pro tem.*

absent at any meeting of the common council, they shall proceed to elect a tempory presiding officer, who, for the time being, shall discharge all the duties of the

mayor. The president, or temporary presiding officer, while presiding over the board, or performing the duties of mayor, shall be styled acting mayor, and acts performed by them, or either of them, shall have the same force and validity as if performed by the mayor, except the signing of city orders. And the said common council shall also elect, at their first or second meeting after the charter elections, a marshal for the city, for the term of one year, and until another is elected and qualified, who shall receive a salary of four hundred dollars per year.

Marshal.

SECTION 4. The clerk shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; and copies of all papers filed in his office, and transcripts from the records of the common council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the common council, and keep a full and accurate account account thereof, in books provided for that purpose. He shall file in his office all chattel mortgages presented to him for that purpose, and safely keep the same, receiving therefor the same compensation as clerks of towns; and all chattel mortgages so filed shall be as valid and legal as if the same had been filed in the town clerk's office in any town. The clerk shall have power and authority to administer oaths or affirmations.

Clerk—his duties.

SECTION 5. The justice of the peace elected under this act, shall have the same jurisdiction and perform all the duties of justices of the peace, and shall qualify in the same manner as provided by the general laws of this state, except that his official bond shall be approved by a majority of the common council; and in addition thereto, he shall have jurisdiction in all cases arising under the ordinances and laws passed by said city, unless therein otherwise provided. All constables elected by virtue of this act, shall have and exercise the same powers and duties, and be subject to the same liabilities as constables of towns.

Jurisdiction of justice.

Constables.

SECTION 6. The treasurer of said city shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city;

Treasurer—his duties.

CHAPTER 96.

or the laws of this state. All moneys raised, received, recovered or collected, by means of any tax, license, penalty, fine, forfeiture or otherwise, under the authority of this act, or which belongs to the said city, shall be paid into the city treasury, and shall not be drawn therefrom, except by an order signed by the mayor, by order of the common council, and countersigned or attested by the clerk. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when and the person from whom the amount of the several sums was received, which books shall at all reasonable times be open to the inspection of any person. He shall, as often as the common council require, render to said council a minute account of the receipts and expenditures of his office, and at the expiration of his office, he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be a collector of taxes, and for this service, except as herein otherwise provided, he shall have the same powers and be subject to the same liabilities, [and] be governed by the same laws as treasurers of towns.

Duties of marshal.

SECTION 7. The marshal shall attend at all meetings of the common council, and shall perform such duties as shall be prescribed by the council for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed; and when necessary in criminal cases, or for the violation of any ordinance of said city, or law of the state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys in said city, and to abate all nuisances in said city, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and within resonable time bring such person before competent authority for examination; and for such services he shall receive such fees as are allowed to constables for like

services. He shall have the power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties. Deputies.

SECTION 8. The common council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed; and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them, except the salary of the marshal. Such compensation shall be fixed by resolution, at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office. Further duties may be required of officers.

SECTION 9. The common council, at their first meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers, printed in said city, in which shall be published all ordinances and other proceedings and matters required by this act, or by the by-laws or ordinances of the common council, to be published in a public newspaper, which printing or publishing shall be let by contract to the lowest bidder or bidders. Printing to the lowest bidder.

SECTION 10. The city printer or printers, immediately after the publication of any notice, or ordinance, or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution. Affidavits of printer.

SECTION 11. If any person, having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description, in his possession, belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers and effects, in the manner prescribed by the laws of this state. Officers to deliver papers, &c., to successors—penalty.

CHAPTER 96.

Aldermen to have no interest in contracts.

SECTION 12. No alderman shall be a party to or interested in any job or contract with the city, or any of the wards, and any contract in which any alderman may be so interested, shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and the alderman interested in the same; and no compensation shall be allowed to the mayor or aldermen for their services, except for services as inspectors of elections.

Peace officers.

SECTION 13. The mayor or acting mayor, sheriff of Winnebago county, and each and every alderman, justice of the peace, marshal, constable, policeman and watchman, shall be officers of the peace, and may command the peace, and suppress, in a summary manner, all rioting and disorderly behavior within the limits of the city; and for such purpose, may command the assistance of all bystanders, and if need be, of all citizens and military companies; and if any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars, and in case where the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct proceedings.

Surveyor.

SECTION 14. There may be elected by the common council a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested; and the same, together with all books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor or the common council.

CHAPTER FOUR.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

Style of ordinances, &c.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "the mayor and common council of the city of Oshkosh do ordain," &c. The common council shall meet at such time and place as they by resolution shall direct. A majority of the aldermen shall constitute a quorum.

Stated and special meetings.

SECTION 2. The common council shall hold stated meetings, and the mayor may call special meetings, by notice to each of the members, to be served personally or left at their usual place of abode. The common council shall determine the rules of its own proceedings and be the judge of the election and qualifications of its own members, and have the power to compel the attendance of absent members.

Powers of council.

SECTION 3. The common council shall have the management and control of the finances, except for schools, and of all the property of the city, and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws, for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rules or by-laws; and such ordinances, rules and by-laws are hereby declared to be and have the force of law: *provided*, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority by ordinances, resolutions or by-laws:

Proviso.

Licenses.

1st. To license and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circusses or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances under the ordinances or at common law; and to grant licenses and

CHAPTER 96.

regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors: *provided*, that the license for so dealing in or vending spirituous or fermented liquors shall not be less than twenty-five dollars or more than fifty dollars a year, and that no license shall be granted for a less term than one year.

Rates of liquor licenses.

Gambling.

2d. To restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in said city, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council.

Riots, &c.

3d. To prevent any riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Abate filthy places.

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome, nauseous house or place, to cleanse, remove or abate the same, from time to time, as often it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses and gunpowder.

5th. To direct the location and management of slaughter houses and markets, and to establish rates for and license venders of gunpowder, and rugulate the storage, keeping and conveying of gunpowder, or other combustible materials.

Encumbering streets, &c.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotive engine or engines, carriages, carts, wagons, sleighs, boxes, lumber, firewood or any other materials or substances whatever.

Racing and bathing.

7th. To prevent horse racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Animals.

8th. To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the distraining and sale of the same.

Dogs.

9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large, contrary to the ordinance.

10th. To prevent any person from bringing, depositing or having within said city any putrid carcass, or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, putrid or unsound beef, pork, fish, hides or skins of any kind; and on default, to authorize the removal thereof by some competent officer, at the expense of such person or persons. Putrid animal matters.

11th. To make and establish public ponds, [pounds,] pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants, to erect lamps, and regulate and license hacks, cabs, drays, carts, and charges of hackmen, cabmen, draymen and cartmen in the city, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise. Pounds, water-works, hacks, lamps, &c.

12th. To establish and regulate boards of health, provide hospital and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and exempt burial grounds set apart for public use from taxation. Public health and burial of dead.

13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto. Bread.

14th. To prevent all persons riding or driving any ox, mule, cattle or other animal on the sidewalks in said city, or in any way doing any damages to such sidewalks. Driving on sidewalk, &c.

15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying any citizen thereof. Firearms, fireworks, &c.

16th. To restrain drunkenness or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Drunkenness, obscenity, &c.

17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses or other establishments, and to establish and regulate the police of the city. Runners.

18th. To establish public markets and make rules and regulations for the government of the same, to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from inter- Markets, &c.

CHAPTER 96.

rupting or interfering with the due observance of such rules and regulations.

Butchers' stalls, &c.

19th. To license and regulate butchers stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.

Hay, fuel, &c.

20th. To regulate the place and manner of weighing and selling of hay, and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same.

Cleaning sidewalks, &c., of unhealthy matter.

21st. To compel the owners and occupants of buildings or grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.

Piers, &c.

22d. To regulate the construction of piers or wharves extending into Lake Winnebago and Fox river, within the limits of said city, and to prescribe and control the prices to be charged for pierage and wharfage thereon.

Contagious diseases.

23d. To regulate, control and prevent the landing of persons from boats or vessels, wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city.

Auctions.

24th. To regulate the time, place and manner of holding public auctions or vendues.

Watchmen.

25th. To appoint watchmen and prescribe their duties.

Weights, &c.

26th. To provide by ordinance for a standard of weights and measures, and for punishment of the use of false weights and measures.

Shade trees.

27th. To protect trees and monuments in said city.

Drainage.

28th. To prescribe and regulate the manner of draining fountains made by individuals, and the construction of sewers within said city.

Streets, &c.

29th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, alleys, and to keep them free from encumbrances and protect them from injury.

Lots to be platted.

30th. To cause all out or in lots within said city, of less size than ten acres each, that have not been plat-

ted and recorded by the owners thereof, as required by law, to be platted and recorded by authority of the board, and to tax the charges of said services against the lot or lots so platted and recorded; to be collected the same as other corporate or general taxes.

Change name of streets.

31st. To alter or change the name of any street in the city.

Alter or vacate.

23d. To alter or vacate the recorded plat of said city or any part thereof surveyed, platted or recorded in the office of the register of deeds of Winnebago county, upon petition, and upon such notice as is required in vacating towns in the circuit court.

Ordinances, &c., to be published.

SECTION 4. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published in the official paper or papers of said city, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk in books to be provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication. No appropriation shall be made without a vote of a majority of the members of the common council in its favor, which vote shall be taken by ayes and noes, and entered among the proceedings of the council.

Record.

In relation to nuisances.

SECTION 5. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without the license required therefor, within the limits of said city, are hereby declared, and shall be deemed public or common nuisances.

Council to audit account of officers.

SECTION 6. The council shall examine, audit [and] adjust the accounts of the clerk, treasurer, school commis-

CHAPTER 96.

sioners, street commissioners of each ward, marshal, and all other officers and agents of the city, at such times as they may deem proper, and also, at the end of each year, and before the time for which the officers of the said city are elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, accounts and vouchers, for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of their said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books, funds, moneys and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant. And the common council shall order suits and proceedings at law against any officer and agent of said city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

Refusal to have accounts audited

Establish dock lines, &c.

SECTION 7. The common council shall have power, by ordinance, to establish wharf and dock lines upon the banks of Fox river and Lake Winnebago, restrain and prevent encroachment upon said river and lake, and obstructions thereto; and to construct, alter and maintain, or cause to be constructed, altered and maintained, at the expense of the city or any of the wards, wharves along the banks of the said river and lake.

Council may investigate acts of mayor, &c.

SECTION 8. The common council shall have authority to examine into and investigate all and every official act and transaction of the mayor, any member of the common council or any other officer of the said city, and also in and to all and every official act and transaction of every person who has heretofore been a member of the common council or held any office under the city government; and for that purpose the mayor of said city, the president of the council or any member of any committee appointed by the council, shall have power to administer all necessary oaths to persons who may be called before said council or any such committee to give testimony. And the mayor of said city (or the president of the council) is authorized and empowered to issue a subpena to be by him signed, commanding any person to appear before the council or any

committee appointed, to testify concerning any matter under examination or investigation as above provided, and also to produce before the council or such committee any books, papers or documents relating to the matter under investigation and examination; and every person served with such process is hereby required to obey the same without the prepayment of any fees.

Contempt—punishment.

SECTION 9. If any person shall neglect or refuse to appear and testify and produce such papers, documents and books as required by the last above named section, the common council may declare him in contempt, and upon proof of service it shall be the duty of the county judge of Winnebago county, or the judge of every court of record, or any court commissioner of said Winnebago county, upon the application of the mayor of said city or the president of the council or of any committee appointed by such council, to issue a summary process, either in term time or vacation, for such a person, and to bring him before him; and then, unless such person shall purge himself of contempt and go before the council or such committee, and testify and produce such documents or papers or books, to commit him to the common jail of said Winnebago county, there to remain in close confinement until he shall so testify or produce such books, documents or papers, as required, or he is discharged by the order of the common council, or any such committee; and the jailer of such county is hereby required to secure any such person, pursuant to any such commitment.

How examination may be had.

SECTION 10. Such examination and investigation may be had, done and taken by the common council when in session, or by a committee to be appointed by the council, who are authorized to perform such duties when the council is not in session.

Evidence.

SECTION 11. Any admission which any person shall make when testifying before any such committee, or the council, shall not be used against him as evidence in any civil or criminal suit.

CHAPTER 96.

CHAPTER FIVE.

FINANCES AND TAXATION.

Council to manage funds.

SECTION 1. All funds in the treasury, except school, state and county funds, shall be under the control of [the] common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council; and all orders drawn upon the treasury shall specify the purpose for which they were drawn, and shall be payable generally out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes except school, poor and special taxes for bridge and school purposes, which shall be collected in money or in orders drawn upon such funds respectively; and all orders shall be payable to the persons in whose favor they may be drawn, or bearer.

Annual tax—limit.

SECTION 2. The common council of said city shall annually levy upon the taxable property of such city to defray the current expenses of said city, as follows: For the support of the poor, a tax not exceeding one thousand dollars; for ward purposes, a tax not exceeding one-fourth of one per cent. upon all the taxable property of each ward, and for all other purposes a tax not exceeding six thousand dollars, except for schools.

Special tax—limit.

SECTION 3. Whenever it shall be necessary to build new bridges, a special tax may be levied for such purposes, not exceeding five thousand dollars in any one year, and when so levied the same shall be carried out by the city clerk in a separate column in the assessment roll, particularly specifying the purpose for which such tax is levied, and the said taxes, when so levied, shall be collected at the same time as other city taxes are collected.

Aldermen to certify ward indebtedness.

SECTION 4. The alderman of any ward shall certify to the council any debts contracted by such ward for the current year, and thereupon the said council shall (if such debt be a proper claim against such ward) allow such debt, and direct the mayor and clerk to issue to the proper person orders of the city to the amount of the debt allowed: *provided*, the said council shall in no case allow any such debt, if such allowance will cause the whole amount of orders so issued to meet the

Proviso.

indebtedness of such ward, to exceed the amount of tax which may be levied and collected under the provisions of this chapter to meet the expenses of the current year, assuming as a basis the tax list of such year, if then made out, and if not, then the tax list of the preceding year.

Ward debt not to exceed tax, &c.

SECTION 5. No alderman of any ward shall contract debts against such ward, in any one year, to an amount greater than the amount of tax which, under the provisions of this chapter, may be levied in such ward to meet the current expenses of the year. And if any alderman shall so contract debts to a greater amount than such tax, neither such ward nor the city shall be liable for the same, but the alderman so contracting shall be liable therefor, as if the debt had originally been contracted by such alderman personally: *provided*, that no alderman shall be held liable as aforesaid, without proof of his assent, as alderman, to the contracting of the liability or debt by the ward.

Proviso.

Verification of accounts.

SECTION 6. No account shall be allowed by the common council unless the same is verified by the owner thereof, or some person in his behalf, which verification shall be substantially as follows: I, being duly sworn, deposes [depose] and says, [say,] the above account is just and true, and the same has not be paid, or any part thereof, and that the same account [accrued] by the order of

Subscribed and sworn to before me this day of A. D.

Accounts to be presented within one year.

SECTION 7. All accounts accruing against the city of Oshkosh shall be presented for allowance to the common council within one year from the time the same accrued, and if the same is not so presented within one year, the same shall not be allowed by the common council or collected in any court.

CHAPTER SIX.

OPENING OF STREETS AND ALLEYS, &C.

Laying out public grounds, streets, &c.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same, as follows: Whenever ten or more freeholders, residing in any ward, shall, by petition, represent to the common council that it is neces-

CHAPTER 96.

sary to take certain lands within the ward where such petitioners may reside, for public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in each petition, the common council shall thereupon cause notice of such application to be given to the occupant or occupants of such lands, if any there be, or if any portion of said lands shall not be in actual occupation of any person, then the common council shall cause such notice, describing, as near as may be, the premises proposed to be taken, to be published in the official paper or papers four weeks, at least once in each week.

What notice shall state.

SECTION 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the county judge or a court commissioner for the county of Winnebago, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take the same for the purposes specified in said petition.

(*Section 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to the county judge or a court commissioner for the county of Winnebago, for the appointment of twelve jurors to view said premises, and to determine wheher it will be necessary to take the same for the purposes specified in said petition.*)

Precept to jury

SECTION 3. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may lie, nor interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises, to be specified in said precept, and to make returns under their hands to the common council, whether in their judgment it is necessary to

take said premises for the purpose specified in such application; and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath faithfully and impartially to discharge their duties as such jurors in the premises, which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Service of precept.

SECTION 4. The city marshal [shall] serve this precept immediately on the jurors therein named, by reading the same to every one of them that can be found, and immediately after such service he shall return the said precept to the judge or court commissioner who issued the same, together with his doings thereon.

To substitute.

SECTION 5. If any of the jurors so appointed can not be found or shall be disqualified from acting, or shall refuse to act, the judge or court commissioner shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

Oath to jurors.

SECTION 6. The said judge or court commissioner shall thereupon administer an oath to said jurors, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trusts reposed in them.

Jurors to view premises.

SECTION 7. The said jurors shall at such time as they shall agree upon, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors, and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take the premises in question for the public use, which said report, testimony and precept shall be returned to the common council within the time limited in said precept. Should the jurors report that it is necessary to take said premises, the common council shall enter an order among their proceedings confirming said report, and directing the same jurors, within twenty days thereafter, or such further

To make report.

CHAPTER 96.

time as shall be necessary, to again view said premises, for the purpose of ascertaining and determining the

Damages.

amount of the damages to be paid to the owner or owners of said property proposed to be taken, and also what lands or premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the common council. And after the jurors shall have made their reports as to the taking of any lands or premises under this act, and the same shall have been confirmed, the common council

New jurors.

shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve; and the jurors before entering upon the discharge of their duties in the premises, shall severally take an oath, before some competent officer, that they are freeholders of said city and are not interested in the premises to be taken, and [that] they will faithfully and impartially discharge the trust reposed in them.

Estimate of value of building.

SECTION 8. If there should be any building standing in whole or in part upon the land to be taken, the jurors, before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owners, aside from the value of the land and the injury to him in having such building taken from him; and secondly, the value of such building to him to remove.

Notice of award

SECTION 9. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known or a non-resident, notice to all persons interested shall be given by publication in the official paper or papers of said city, three successive weeks. Such notice shall specify the building and the award of the jurors. It shall also

Parties interested must appear.

require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the jurors, and allow such building to be taken with the land appropriated, or of their intentions to remove such building. He shall have such time for this purpose as the common council may allow.

When building to be sold.

SECTION 10. If the owner refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of

such building at public auction, for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner or deposited to his use.

Jurors to hear testimony and assess damages, &c.

SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such other premises as will in their judgment be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken, and the injury arising to them respectively in consequence of the taking thereof, which shall be awarded to such owners respectively, as damages, after making due allowance therefrom for any benefit which such owners may derive from such improvement. In the estimate of damages to the land, the jurors shall inludec the value of the building or buildings, (if the property of the owner of such land,) as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove; in such case they shall only include the difference between such value and the whole estimate [estimated] value of such building or buildings.

Strike a balance.

SECTION 12. If the damage to any person be greater than the benefits received, or the benefit be greater than the damages, in either case the jurors shall strike a balance and carry the difference forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall, in any case, be collectable of them or payable to them.

Jurors' award in certain cases.

SECTION 13. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such persons or interests respectively, may be awarded to them by the jurors, less the benefits resulting to them respectively from the proposed improvements.

Award to be assessed, &c.

SECTION 14. Having ascertained the damages and expenses of the proposed improvement as aforesaid, the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings, upon the real estate by them deemed benefited, in propor-

CHAPTER 96.

tion to the benefits resulting thereto from the proposed improvement, as nearly as may be, and shall describe the real estate upon which these assessments may be made. The award of the said jurors shall be signed by them and returned, together with the testimony taken and the precept, to the common council within the time limited in such precept.

Appeal.

SECTION 15. Any person whose property is taken or against whom assessment is made, may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages or benefits to the circuit court of Winnebago county, where such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall have the same right of appeal.

Lands not to be taken until damages are tendered &c.

SECTION 16. The land required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered to the owner or his agent; or, in case the said owner or agent cannot be found or is unknown, deposited to his or their credit in some safe place of deposit; and then, and not before, such lands may be taken and appropriated for the purposes required; and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out.

Damages—when paid, &c.

SECTION 17. The damages assessed shall be paid or tendered, or deposited as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case shall be void. The benefits so assessed, from the confirmation of said report, shall become and remain a lien upon the premises so determined by the jurors to be benefited by the opening or widening of such street, alley or public ground.

Lien.

To file vouchers with clerk that damages have been paid, &c.

SECTION 18. It shall be lawful for any person to pay or tender, or deposit, as herein required, at any time within one year from the confirmation of such assessment and report, the damages assessed in any such case; and whenever proper vouchers and evidence are filed with the city clerk that said damages have been so paid, tendered or deposited by any person, it shall be the duty of the common council to enter an order among their proceedings to take and appropriate such

lands for the purpose required, and also to order the collection of the benefits as aforesaid upon the premises so determined by the jurors to be benefited by the opening or widening of such street, alley or public ground, for the sole use and benefit of the persons who have so paid said damages, the same to be collected in the same manner as other taxes on real estate are collected by virtue of this act.

Lands under lease.

SECTION 19. When the whole of any lot or tract of land, or other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties, touching the same, or any part thereof, shall, upon the confirmation of such report, respectively, cease and be absolutely discharged.

Ibid.

SECTION 20. When only part of a lot or tract of land, or other premises, so under lease or other contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged, as to the part thereof taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for, in respect to the same.

Proceedings when owner is a minor.

SECTION 21. When any known owner of lands or tenements effected [affected] by any proceedings under this act, shall be an infant, or labor under legal disability, the judge of the circuit court of Winnebago county, or in his absence, the judge of any court of record in said county, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian.

Survey and profile.

SECTION 22. Whenever any public ground, street or alley shall be laid out, widened or enlarged under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

CHAPTER SEVEN.

CITY IMPROVEMENTS.

Aldermen to be street commissioners—their duties.

SECTION 1. The aldermen of the several wards shall be street commissioners in and for their respective wards, two of whom shall be a quorum, whose meetings shall be held at the office of the city clerk. The city clerk shall be clerk of the board of commissioners, who shall keep a record of all their acts and doings, and shall keep and preserve all contracts, receipts and papers of the board. The several boards of street commissioners shall make report in detail to the common council of their acts and doings whenever required, and at the expiration of each year, and before their term of office shall expire, shall submit all their acts and doings, books, records, papers, accounts, receipts and vouchers to the common council for final settlement and adjustment.

Appeal.

SECTION 2. Any person deeming himself aggrieved by an act of this board of street commissioners may, at any time, appeal to the common council, who shall inquire into, examine and correct the act or order complained of, as shall seem just and proper; and the further action of the board, in this respect, shall be regulated accordingly.

May contract, &c.

SECTION 3. The said street commissioners shall have power to order and contract for the making, grading, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters and sewers within their respective wards, and to direct and control the persons employed therein. Wherever the street commissioner shall

Sidewalks.

deem it necessary to construct or repair any sidewalks within their ward, they shall direct the owner or occupant of any lot adjoining such sidewalk to make or repair the same, at his own proper cost and charge. If such work is not done in the manner and in the time prescribed, the commissioners shall cause the same to be done at the expense of the lots adjoining such side-

Grade, &c., must be authorized by ordinance.

walk. The street commissioners shall not have power to make and grade in the several wards of the city any street, alley, public grounds, reservoirs, gutters or sewers, or to construct any sidewalks in their respective wards, unless the same has been first duly authorized by ordinance of the common council of said city:

provided, nothing herein shall be so construed as to prohibit such street commissioners from making or causing to be made all necessary repairs to any sidewalk, street, alley, public grounds, reservoirs, gutter or sewer. Hereinafter [hereafter] no special improvements shall be ordered by the common council exceeding in estimated cost the sum of two hundred dollars, unless the owners of more than one-half of the land to be taxed for such improvement shall petition in writing for the same, or unless the same shall be ordered by a vote of three-fourths of all the aldermen elect. If, however, the common council order any special improvement to be made, or pass any ordinance or resolution requiring any special improvement to be done, the vote therefor of the aldermen shall be taken by yeas and nays, and entered upon the journal of the proceedings of the said council; and no special improvement shall be valid or binding, unless said vote be so taken and entered upon the journal.

When special improvements must be petitioned for.

SECTION 4. The cost and expense of surveying streets, alleys, sidewalks, sewers, and of estimating work thereon, and of constructing and repairing reservoirs and sewers, shall be chargeable to and payable out of the fund of the proper ward; opening, grading, graveling, planking or paving streets and alleys to the centre thereof, shall be chargeable and payable by the lots fronting on such street or alley. Sewers may be ordered by the street commissioners, and built at the expense of the lots or parcels of land benefited thereby, which shall be apportioned among said lots or parcels of land by the street commissioners, with the assistance of the city surveyor: *provided, however*, that where sewers are constructed through alleys, no lots shall be assessed therefor, except those situated in the block or blocks through which said sewers may be constructed; and where sewers are constructed through streets, no lot shall be assessed therefor, except those situated in the blocks fronting on such streets; *and provided, further*, that in all cases where improvements or work of any kind are charged by virtue of this section upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for out of the fund of the proper ward, in proportion to the width of the street, alley or public ground.

Expenses of surveying—how paid.

Provisos

CHAPTER 96.

Est'mate of expenses to be filed

SECTION 5. Whenever the commissioners shall determine to make any public improvement, as authorized by sections three and four of this chapter, they shall cause to be made an estimate of the whole expenses thereof, and of the proportion to be assessed and charged to each lot, and in case of grading streets, alleys or sidewalks, of the number of cubic yards to be filled in or to be excavated in front of each lot; and such estimate shall be filed with the city clerk, for the inspection of the parties interested. The street commissioners shall give notice by advertisement for ten days in the official paper or papers published in the city of Oshkosh, to the owners or occupants of the lots or parcels of land fronting on any streets, alley or sidewalk ordered to be graded, graveled, planked or paved, requiring them to do the work mentioned in such notice within a reasonable time, therein to be specified: and if the said work shall not be done within such time, the said commissioners shall enter into contract for the doing thereof.

Publication of notice to lot owners.

Excavation, &c.

SECTION 6. Whenever the general interest of the city or ward requires deep cutting or extraordinary filling [of] any street, and the owners of the lots or lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the commissioners in writing, that the expense of such excavation or filling will exceed the benefit the same will be to the property assessed therefor, the street commissioners shall require the marshal to summon five freeholders, not residents of the ward nor owners of, nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises, and if in their opinion, the cost of such work shall exceed the benefit derived therefrom, it shall be their duty to make report thereof to said commissioners, in writing, and shall state therein what portion of such work shall be chargeable to such lots or parcels of land, and how much or what portion shall be chargeable to the ward fund; and such proportion as shall be reported as properly chargeable to the lots or parcels aforesaid, shall be assessed upon the same, and levied and collected as other taxes and assessments, and the remainder shall be paid out of the ward fund: *provided, however,* that the petition of no owner, feeling himself aggrieved

Remonstrance.

Freeholders to examine and report.

When remonstrance must be presented.

by an act of the street commissioners, shall be received unless the same shall be presented within fifteen days after the first publication of the notice requiring the same to be done; *and provided, further*, that when it shall appear to the street commissioners that lands belonging to (*the*) non-residents, infants or persons laboring under any legal disability, who shall not be represented by any agent or guardian, or not benefited by the making of streets in front of such lots or lands, to the amount of the cost and expense thereof, it shall then be the duty of said commissioners to cause to be summoned a jury, as is herein provided.

Non-residents, &c.—jury.

SECTION 7. The street commissioner shall give notice to all owners or occupants of lots which may be deemed injurious to health, by reason of stagnant water remaining thereon, in the official paper or papers published in the city of Oshkosh, for ten days, to abate such nuisance, by draining or filling such lots within a reasonable time therein to be specified, and if such nuisance shall not be abated or removed within the time so specified, the street commissioner shall cause the same to be abated or removed at the expense of the property upon which the same may exist.

Notice to owners to abate nuisances.

SECTION 8. After the completion and performance of any contracts entered into by the street commissioners for work chargeable to lots or lands by virtue of this act, they shall give to the contractor or contractors a cerificate, under their hand, stating therein the amount of work done by such contractor, the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon, and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same shall be assessed upon the said lots or parcels of land respectively, and collected for the use and benefit of the holder of such certificate as other taxes on real estate are collected by virtue of this act; and if the notice to do the work required shall have been given, as herein provided, no informality or errors in the proceedings shall vitiate such assessment; *provided*, that in no event where work is ordered to be done at the expense of any lot or parcel of land, shall either the city or any ward be held responsible for the payment thereof.

Commissioners' certificate of work done.

Proviso.

CHAPTER 96.

Appeal.

SECTION 9. In all cases when work is ordered to be done by the owner of any lot, under the provisions of this chapter, such owner may make an appeal as hereinbefore provided, at any time within twenty days after the publication of the notice required to be given, and until the expiration of such twenty days, no such orders shall be executed.

Cleaning and repairing streets, &c.

SECTION 10. The street commissioners of the several wards are hereby authorized to require, by such general regulations as they may choose to adopt, the owners or occupants of the several lots within their respective wards to cleanse and repair the sidewalks, streets and alleys, and to employ any person or persons whose duty it shall be, to make repairs and cleanse such streets, alleys and sidewalks. Whenever such regulations shall not have been complied with, at some period prior to the time of the delivery of the tax list to the treasurer, under the charter, it shall be the duty of the street commissioners to make or [a] report to the city clerk of the amount of tax properly chargeable against each lot for work done under this section, for any period not exceeding one year prior to such report, specifying the amount in gross, and such amount shall be a lien upon such lots, and be levied thereon as a special tax, with all the legal consequences, both as to collection of taxes and sale of the lots prescribed in this act, for special taxes.

CHAPTER EIGHT.

ASSESSING, LEVYING AND COLLECTING TAXES.

Taxable property.

SECTION 1. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government and the payment of its debts and liabilities; and the same shall be assessed in the manner hereinafter provided; and the assessors elected under this act shall have and possess the same powers that are or may be conferred upon township assessors, except so far as they may be altered by this act: *provided, however*, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or adding to such rolls as they may from time to time deem advisable.

Proviso.

Assessors' meetings.

SECTION 2. Within ten days after receiving notice of their election, the assessors shall assemble at the common council chamber, and after taking their official oaths shall proceed to organize their body, by electing one of their number chairman, who shall be authorized to administer such oaths as shall be required by this chapter; and within such time as the common council shall designate, the said assessors shall make out a complete and accurate assessment roll, which shall contain a description, as near as may be, of all the lands, lots or parcels of land within said city, sufficient to identify the same, and also of all persons or bodies politic liable to pay taxes on personal property; and opposite to each lot or parcel of land shall be affixed the value thereof, and opposite to the name of each person or body politic shall be affixed the value of the personal property for which such person or body politic shall be assessed. When there are buildings upon any lot or parcel of land, the value of the same shall be set forth in a separate column. The assessors may, if they deem it advisable, assess any lot or tract of land in such parcels or such sub-divisions as they may deem proper, but it shall not be necessary to enter the name of the owner to any tract or parcel of land. Any act done by the majority of the assessors shall have the same force and effect as if done by all the assessors elected under this act.

Tax list—how to be made.

Assessors to give notice.

SECTION 3. When the same shall be completed, the assessors shall give one week's notice thereof in the official paper or papers, and shall fix a time and convenient place where they will meet for the purpose of hearing any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same, the assessors shall make such alterations or revisions as justice or equity may require: *provided*, the time of hearing such objections shall not be extended more than two weeks from the expiration of such notice.

Return of assessment roll.

SECTION 4. Within one week after the time limited for the hearing of such objection, the board of assessors shall return the said assessment roll to the board of qualization of the city, and they may confirm or refer the same back to the assessors. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter, and [add] to,

take from, and otherwise revise and correct the same: *provided, however*, the board of equalization shall not have the power to increase the amount of said roll except by the value of such real property, as may have been omitted by the assessors.

Proviso.

Roll to be filed.

SECTION 5. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk. Thereupon the common council shall, by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized per centage, particularly specifying the purposes for which the same are levied.

City board of equalization—when to meet.

SECTION 6. The mayor and city clerk, with the aldermen of each ward serving as members of the county board of supervisors for the year, and the assessor of each ward, shall constitute the city board of equalization, and shall meet at the office of the common council on the first Monday of July, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are required to proceed, so far as the same are applicable, reviewing, correcting and equalizing the assessment rolls of the several wards in the city, in the order of their numbers. The mayor shall be president of the board of equalization, and the city clerk the clerk thereof.

Roll to be recorded.

SECTION 7. All changes of assessment rolls by the board of equalization shall be duly recorded by the city clerk.

Taxes a lien on land.

SECTION 8. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the time of the confirmation of such assessment roll, and on all personal property of any person or body politic, assessed for personal taxes, from the delivery of the warrant for the collection thereof until such tax shall be paid; and no sale or transfer of such real or personal estate shall effect [affect] said lien. Any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon personal property.

Tax list to be copied.

SECTION 9. As soon as said tax shall be levied, the city clerk shall cause the same to be copied in a book provided for that purpose, setting opposite to each tract of land, and to each person named, under proper

columns, such sum or sums as may be levied upon such lot or against such person. The said copy shall be designated as the "tax list," and to it shall be appended a warrant, signed by the mayor and clerk and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments in said list specified, in the manner prescribed by this act.

Treasurer's warrant.

SECTION 10. Such tax list, before being delivered to the treasurer, shall be compared by the clerk with the assessment roll as confirmed. To it he shall append his certificate that the same has been so compared by him, and that the said assessment roll, and the whole thereof, has been copied into such tax list; and the said tax list, when so certificate, shall be *prima facie* evidence in any court that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

To be compared.

SECTION 11. All the general laws of this state which are now or may hereafter be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided, and the city treasurer shall proceed to collect the taxes and all assessments of said city at the same time and in the same manner as is required by law of the town treasurers to collect taxes; and all unpaid taxes and assessments shall in like manner be returned to and collected by the county treasurer; and the city treasurer, before returning such unpaid taxes and assessments, shall add five per cent. for collection fees, which sum shall be collected with such other unpaid taxes, assessments and charges by the county treasurer, and by him when collected shall be paid over to the city treasurer, and the said city treasurer shall place the same when so paid in the general fund of the city, for the benefit of the city. The city treasurer shall be entitled to receive, charge and collect as fees for the collection of taxes and assessments, three per cent. upon all taxes and assessments collected by or paid to him prior to the first day of January in each year, and five per cent. upon all taxes and assessments paid to or collected by him after the said first day of January. The city treasurer shall, upon the receipt of the tax list, publish a notice in the official paper of the city, (if any there be, if not, then in some paper of the city, if there is

Collection of taxes.

Fees.

Notice to be published—what to specify.

CHAPTER 96.

any published in the city,) specifying that all taxes and assessments, whether upon real or personal property in said tax list, shall be paid on or before the last day of December of said year, and that all taxes and assessments not paid by that day will be collected by the seizure and sale of the goods and chattles of the person, company or corporation charged with such taxes and assessments; and the publication of such notice shall be deemed and taken to be a demand, and failure to pay the taxes and assessments within the time limited in such notice, shall be deemed a refusal to pay the same.

Record of receipts.

SECTION 12. The city treasurer shall keep in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer from any service [source] whatsoever; and when the amount thereof shall reach the sum of eight hundred dollars, all sums by him received over and above that amount shall be paid by him into the general fund of said city, for the benefit of the city; and such books shall at all times be open for inspection by the mayor or common council, or to any committee appointed by the common council; and the said city treasurer, when required by the common council, shall make a report under oath of all the fees by him received as such city treasurer.

Sales to the city for taxes.

SECTION 13. If, at any sale of personal estate for taxes or assessments, no bids shall be made for any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive, in the corporate name, a certificate for the sale thereof, and shall be vested with the same rights as other purchasers. If the city shall become the purchaser of personal property by virtue of this chapter, the treasurer shall have the power to sell the same at public sale.

Tax on lands omitted.

SECTION 14. If it shall appear to the assessors that any lot or parcel of land was omitted in the assessment roll of either or both of the two preceding years, and that the same was then liable to taxation, they shall, in addition to the assessment for that year, assess upon the lot or tract so omitted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred; and such assessment shall have the same force and effect as it would have had if made the year when the same

was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with, had not the same been so omitted; and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whosesoever hands they may have come. Should the tax or assessment upon any parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying, selling or conveying the same, but not effecting [affecting] the equity and justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void, to be relieved [relevied] in such manner as they shall by ordinance direct: *provided*, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct; and the said tax or assessment so reassessed or relevied, shall be and continue a lien upon said lot or tract, and shall be collected as other taxes and assessments are collected under this act.

Proviso.

Bonds—amount of taxes—liability.

SECTION 15. The common council of said city shall not have power to issue any bonds or other evidences of debt payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law, nor shall the common council issue in any one year orders upon the city treasury to an amount greater than the amount of taxes which may be levied under the provisions of this act; and in case a greater amount of orders shall be issued than is herein provided, the members of said common council shall be personally liable therefor, and the amount of such excess may be collected of them, or any one of them, by any person holding such orders, in any court of competent jurisdiction: *provided*, that no member of said council shall be held liable as aforesaid without proof of his assent to the issue of such excess of orders.

When warrant may issue to marshal.

SECTION 16. Whenever the taxes either upon personal or real property shall not be paid by the fifteenth day of January of any year, the treasurer may issue his warrant, directed to the city marshal, commanding him to collect such unpaid taxes, and for such purpose the city marshal shall have all the powers and be subject to the same liabilities and be entitled to the same

CHAPTER 96.

compensation as is now provided by the charter of said city, and the said warrant, when so issued, shall be returnable before the expiration of the time allowed by law to the said treasurer for the collection of said taxes.

Errors shall not vitiate, &c.

SECTION 17. All the direction hereby given for the assessing of lands and the levying and collection of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Redemption.

SECTION 18. Any lot or tract of land heretofore sold by the treasurer of the city or any portion thereof, may be redeemed within three years from the day of sale, and at any time before the deed is executed, by the owner or any person interested therein paying to the treasurer the amount for which the same was sold, together with the interest at the rate of twenty-five per cent. per annum, and the legal charges thereon. If the estate of an infant or lunatic be sold, the same may be redeemed upon the like terms, at any time within one year after such disability shall be removed.

Tax deeds.

SECTION 19. Any tract or lot of land sold in pursuance of the former city charter, or any part thereof, which shall not be redeemed within three years from the day of sale, shall be conveyed by the treasurer to the purchaser or his assigns, as herein provided. The assignee of any tax certificate by endorsement thereon, of any premises sold for taxes by virtue of the former city charter, shall be entitled to receive a deed of such premises in his own name and with the same effect as though he had been the original purchaser.

To be *prima facie* evidence, &c.

SECTION 20. All deeds purporting on their face to be executed on account of sale for taxes or assessments under the former city charter, shall be in all cases *prima facie* evidence of the validity of such tax, and if the title conveyed by such deed shall come in question, shall be *prima facie* evidence of all facts recited in such deed, so far as they affect the validity of the title conveyed by such deed.

Priority of redemption.

SECTION 21. In all cases where there has been a sale heretofore by the county treasurer and by the city treasurer, of any piece or parcel of land for taxes, in

the same year, the purchaser of such piece or parcel who may be first in point of time, may redeem the same from the subsequent purchaser, and in case he shall not redeem, the right of the last purchaser shall be held paramount in case of the execution of any tax deed therefor. If the first purchaser in point of time shall so redeem, it shall be the duty of the proper officer to make an entry in the sale book of the character in which such person may redeem, and the person so redeeming shall be substituted to all rights of the holder of the certificate so redeemed as aforesaid.

No proceedings allowed until all charges are paid.

SECTION 22. No person shall be permitted to institute any proceedings to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract of land, or to set aside or to set up or interpose any objections to the title derived by virtue of any deed executed in consequence of the non-payment of such taxes, and of the sale of the premises therefor, unless such person shall first pay or tender to the proper party, or deposit for his use with the treasurer, the amount of all state, county and city taxes that may remain unpaid upon such lot or tract, together with the interest and charges thereon.

Clerk to lay assessment roll before county board.

SECTION 23. Before the annual meeting of the board of supervisors of the county of Winnebago, in the fall, it shall be the duty of the city clerk to cause a copy of the assessment roll of said city, for such year, to be transmitted to the clerk of the board of supervisors, who shall lay the same before the board of supervisors at their meeting.

Board may equalize.

SECTION 24. The board of supervisors shall have the right of equalizing the assessment rolls of the towns in said county, and of said city, as provided by law; but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Tax.

SECTION 25. The said board of supervisors may levy a tax as now provided by law, but shall therein proceed without regard to the division of the city into wards, and shall cause the amount of taxes to be levied and the purposes to be certified to the city clerk in the manner provided by the general laws of this state; and the said city clerk shall make out a tax list for that purpose, separate from the tax list for city purposes, and shall deliver the same to the city treasurer, as provided by law.

CHAPTER 96.

Treasurer's duties.

SECTION 26. The treasurer of the city in collecting such tax, and making his return to the county treasurer, and in all other respects, shall conform to the general laws of the state, except that the return to the county treasurer shall be for the city and not for the wards.

Collection of taxes on personal property.

SECTION 27. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in this tax list, he shall proceed in all things according to chapter 18 of the revised statutes of this state, and the acts amendatory thereto, in bringing such delinquent person before some justice of the peace, and such proceedings shall be had as is provided by said chapter 18, and as is prescribed by chapter 198 of the general laws of 1860, and any act that may be hereafter passed amendatory to said acts or in addition thereto.

CHAPTER NINE.

FIRE DEPARTMENT.

Fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power, and it shall be their duty, to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall not be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage.

Fire proof buildings.

Council may prevent the construction of dangerous buildings &c.

SECTION 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of

fire; to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires; to regulate and prevent the use of fire-works and fire-arms; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and, generally, to establish such regulations for the prevention and extinguishment of fires, as the common council may deem expedient.

May purchase fire engines.

SECTION 3. The common council shall have full power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, and hook and ladder, and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of eighteen and fifty years, and may elect their own officers, and form their own by-laws, not inconsistent with the laws of this state, or the ordinances or regulations of said city, and shall be formed only by voluntary enlistments. Every member of each company hereby authorized to be formed, shall be exempt from highway work and poll tax, and from military duty during the continuance of such membership; and any person having served for the term of seven years in either of said companies, shall be forever hereafter [thereafter] exempt from poll tax and from military duty, except in case of insurrection or invasion.

Fire companies.

Exemption.

First meeting of companies.

SECTION 4. There shall be a meeting of the members of said companies on the third Monday of April in each year, at such place as may be designated by the chief engineers, when they may nominate and recommend to the common council for appointment, one chief engineer and three assistant engineers, and the common council shall thereupon confirm or reject said nominations; and the person so appointed shall perform such duties as the common council shall prescribe.

CHAPTER 96.

Fire wardens.

SECTION 5. At the same time the members of said companies shall nominate, and the common council shall appoint or reject the same, ten fire wardens, who shall perform such duties as the common council shall prescribe; and they may at any time enter into or upon any house, store, barn or other building or enclosure, for the purpose of inspecting the same.

Fines.

SECTION 6. One-half of the net proceeds of all fines and penalties recovered for the breach of any ordinance, by-law or regulation made in pursuance of this chapter, shall be paid to the fire department.

Penalty for refusing to work at fires.

SECTION 7. Whenever any person shall refuse to obey any lawful order of any engineer, fire warden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally the marshal, constable, watchman or any citizen to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding fifteen dollars.

Sack company—their duties.

SECTION 8. The common council shall have power to organize a sack company, or continue in force any such company now organized, which shall [be known] as sack company No. 1, to consist of not more than twenty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineers. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Oshkosh, and are hereby vested with all the powers and authority which now is or may hereafter be vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires, they shall take charge of all property which may be exposed or endangered, and shall, as far as it may be in their power, preserve the same from injury or destruction. Said company may, from time to time, adopt such by-laws and regulations as they may deem neces-

sary, not inconsistent with the laws of the state. The members of said company shall not be entitled to any pay or compensation for services rendered in their official capacity. They shall, in case of riot or disturbance of the peace, have free access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same. The members of said company shall severally take an oath or affirmation, that they will faithfully discharge the duties of their said office; and when any member of said company shall cease to be a member thereof, by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk, and they shall preserve a record of all the members of said company.

No compensation.

Oath.

CHAPTER TEN.

SUPPORT OF POOR.

SECTION 1. The laws of this state for the relief and support of the poor in towns, shall apply to said city, and the common council may annually levy a tax, not exceeding one thousand dollars, to comply with the provisions of such law; such tax to be levied and collected in the same manner as annual city taxes. And the common council shall appoint one or more of their number to act as overseer of the poor of the city, who shall perform all the duties of overseer of poor in towns.

Poor tax.

CHAPTER ELEVEN.

MISCELLANEOUS PROVISIONS.

SECTION 1. All work for the city, or either of the wards, including all printing and publishing, shall be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting such contract.

All work to be let by contract.

SECTION 2. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

Appropriations.

SECTION 3. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a majority of the aldermen elect.

Judgments—how remitted.

CHAPTER 96.

Actions—how brought.

SECTION 4. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the clause of this act or by-law, or ordinance, under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Prosecutions.

SECTION 5. In all the prosecutions for any violation of any of the provisions of this act, or any by-law or ordinance, the first process shall be a summons, unless oath be made for a warrant, as in other cases.

SECTION 6. When the action is commenced by summons, the complaint therein may be substantially in the following form:

Summons.

The city of Oshkosh } In (*the*) justice court.
against }

The plaintiff complains against the defendant in an action of debt, for that the defendant did, on the day of 18 violate section of an ordinance (or by-law, describing it by its title,) which said is now in force. By reason of such violation, an action hath accrued to the city of Oshkosh to recover of the defendant the sum of dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

SECTION 7. In all cases where the oath is made for a warrant, the complaint shall be made on the oath of the complainant, and no other affidavit shall be necessary, which complaint last above named may be substantially in the following form:

Complaint.

The city of Oshkosh } In justice court.
against }

State of Wisconsin, } [ss.]
Winnebago county, }

being duly sworn, complains on oath to justice of the peace of the city of Oshkosh, that did, on the day of 18 violate section of an ordinance ([or] by-law) of said city, (describing it by its title,) which said is now in force and ef-

fect, as this complainant verily believes, and prays that said may be arrested and held to answer to the said city of Oshkosh therefor.

Subscribed and sworn to before me, this day of 18 .

It shall be sufficient to give the number of the section or sections, and the title of the ordinance or by-laws, or of the law violated, in the foregoing forms of the complaints, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant thereon, which may be substantially as follows:

Warrant.

State of Wisconsin, }
Winnebago county, } [ss.]
City of Oshkosh, }

To the sheriff or any constable of said county, or to the marshal of the city of Oshkosh, greeting:

Whereas, has this day complained to me in writing on oath, that did, on the day of 18 violate section or sections of ordinance, by-law, regulation or law, (as the case may be, describing it by its title,) which said is now in full force and effect, as the said complainant verily believes: Therefore, in the name of the state of Wisconsin you are hereby commanded to arrest the body of the said and him bring before me forthwith, to answer to the city of Oshkosh on the complaint aforesaid.

Given under my hand this day of 18 .

justice of the peace.

Proceedings before justice.

Upon the return of the warrant, the justice may proceed summarily with the case, unless it be continued by consent or for cause. If the cause be adjourned, the defendant, if required by the court so to do, shall recognize with security, to be approved by the court, for his or her appearance, in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Winnebago county. The complaint made as aforesaid shall be the only complaint required, and a plea of not guilty shall put in issue all subject matter embraced in the action.

Printed copy deemed evidence, &c.

SECTION 8. A printed copy of an ordinance, by-law or resolutions passed by the common council and pub-

CHAPTER 96.

lished in a newspaper or in pamphlet or book form, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

Witnesses and jurors.

SECTION 9. Witnesses and jurors shall attend before a [the] justice of the peace in all city and criminal suits without the payment of fees in advance or a tender thereof, upon process of the court duly served, and in default thereof, their attendance may be compelled by attachment.

Finding and judgment.

SECTION 10. In city prosecutions, the finding of the court or jury shall be either guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture contained in the ordinance, by-laws or resolution for the violation of which the person or persons shall have been adjudged guilty, and for the costs of suit; but if not guilty, the costs shall be taxed against the city. Upon conviction and the non-payment of such judgment, the court may forthwith issue an execution, as in cases of tort, and shall determine and enter upon the docket the length of time the defendant shall be imprisoned, which in no case shall exceed six months, and also insert such time in the commitment or execution. Such execution may be in the following form:

Execution.

State of Wisconsin, }
Winnebago county, } ss.
City of Oshkosh, }

To the sheriff or any constable of the county of Winnebago, [or to] the city marshal, and to the keeper of the common jail in said county, greeting:

Whereas, the city of Oshkosh, on the day of 18 recovered a judgment before the justice of the peace of said city, against for the sum of dollars, together with dollars cost of suit, for the violation of an ordinance, by-law, resolution or law, (as the case may be:) These are therefore in the name of the state of Wisconsin, to command you to levy distress on [of] the goods and chattles of said excepting such as the law exempts, and make sale thereof according to law, in such case made and provided, to the amount of said sum, together with your fees and twenty-five cents for this writ, and the same return to me in

thirty days; and for want of such goods and chattles whereon to levy, take the body of the said and him convey and deliver to the keeper of the common jail in Winnebago county; and said keeper is hereby commanded to receive and keep in custody in said jail, the said for the term of unless said judgment, together with all costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand this day of 18

justice of the peace.

Competency of judge, &c.

SECTION 11. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Ordinances now in force.

SECTION 12. All ordinances, regulations or resolutions now in force in the city of Oshkosh, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council, after this act shall take effect.

Actions, &c., vested in corporation.

SECTION 13. All actions, rights, fines, penalties and forfeitures, in suit or otherwise, which have accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

Failure to hold election not a loss of franchise.

SECTION 14. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had at any subsequent day, by order of the common council; and if any of the duties enjoined by this act or the ordinance or by-laws of the city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which the said acts may be done and performed.

Jurisdiction of city over bridges &c.

SECTION 15. All that part of Fox river within the limits of said city, shall be kept under the exclusive jurisdiction of the said city and its common council, and all bridges over the said river, within the limits aforesaid, shall be under its jurisdiction; and the mayor and common council of said city are hereby fully empowered to purchase bridges now existing within

CHAPTER 96.

said city limits, and also to build and construct, or cause to be built and constructed, new bridges over said river, at such point or points as they may deem necessary, and for the best interest of the city, and to maintain and support all such bridges which the city may own now, or may purchase or build hereafter, at the expense of the said city: *provided*, that all of said bridges shall contain draws sufficient for the passage of vessels.

Proviso.

New bridges.

SECTION 16. Whenever the common council shall deem it necessary and for the best interests of said city to build one or more new bridge or bridge over Fox river, they may for the purpose of defraying the expenses of the first construction of such bridge or bridges, levy a special tax upon all the taxable property of said city, such taxes to be levied and collected in the same manner as is provided for the levying and collecting of the annual city taxes in this act: *provided*, that no such tax shall be levied, unless the question be submitted to the qualified electors of the city, nor unless a majority of all the qualified electors voting on such question, shall vote in favor of levying and collecting the same, as proposed by the common council. Notices of the time and place when and where such election will be held, shall be published in the official paper or papers for three successive weeks, at least once in each week. If the construction of one or more new bridge or bridges is so determined, it shall be the duty of the street commissioners of the several wards wherein such bridges are situated, to cause all necessary grading to be done in their respective wards, in order to render the road thereto passable.

Special tax.

Proviso.

Notice of election

Laws applicable to protection of bridges.

SECTION 17. The general laws for the preservation of bridges, and the punishment by such laws provided for the willful and malicious injuries done thereto, are hereby extended to and shall include all of said bridges, and shall apply to any willful or malicious damage which may be done to either of them by any person or persons whatever; and the common council may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges and enforce the same by adequate penalties. In case of any damage done to any of said bridges, by any vessel or water crafts, or by the master or any persons in command thereof, such vessel or water craft

may be proceeded against under the law to provide for the collection of demands against boats and vessels.

Actions against city.

SECTION 18. When any suit or action shall be commenced against said city, the services thereof may be made by leaving a copy of the process, by the proper officers, with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof, or take such other proceedings as by ordinances or resolutions of said council, may be in such case provided.

Property exempt

SECTION 19. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

Commissioners to establish line of streets, &c.

SECTION 20. The common council of said city may at any time appoint five commissioners, one from each ward, who, with the assistance of the city surveyor, or such other assistant surveyors as the council may appoint, shall cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and shall cause to be established such permanent landmarks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the said surveyor and commissioners, which shall be filed in the office of the city clerk, and a copy thereof shall be recorded in the office of the register of deeds of Winnebago county.

Survey to be evidence.

SECTION 21. The survey and landmarks so made and established, shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy, in all courts in this state.

Grade.

SECTION 22. The common council of the said city may, at such time as they may deem proper, establish the grade of all streets, alleys and sidewalks in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Winnebago county; and should the grade so established be at any time hereafter altered, all damages, costs and charges arising therefrom shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured

CHAPTER 96.

in consequence of the alteration of such grade: *provided*, that nothing in this section contained shall be construed so as to prevent the street commissioners of the several wards of the said city from ordering or causing to be done the grading of any street within their ward, to a temporary grade to be established by such street commissioners.

Proviso.

City may hold real estate.

SECTION 23. The said city may lease, purchase and hold real or personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

SECTION 24. Real estate exempted from taxation by the laws of the state, shall be subject to special taxes, as other real estate under this act.

Not considered as repealing.

SECTION 25. No general law of this state, contravening the provisions of this act, shall be considered as repealing, annulling or modifying the same, unless such purpose be expressly set forth in such law, as an amendment to this charter.

Subdivision of lots, &c.

SECTION 26. Every individual or company of individuals, or body corporate, owning a lot or tract of land within the corporate limits of the city of Oshkosh, who may desire to subdivide or plat such lot or tract of land into city lots, shall, in platting the same, cause the streets and alleys in such plat to correspond in width and general direction with the streets and alleys through the lots and blocks in said city, adjacent to said lot or tract of land so platted; and before recording such plat, as required by law, it shall be the duty of such person or persons making such plats, to submit the same to the common council of said city for approval, and if said plat shall be approved by the common council, it shall be lawful for the party or parties making such plat to record the same in the manner prescribed by the revised statutes of this state concerning town plats; but except such plat shall be approved by resolution adopted by said common council, a copy of which, duly certified to be [by] the city clerk, shall be affixed to said plat, it shall not be lawful for the register of deeds of Winnebago county to receive such plat for record; and the person or persons neglecting or refusing to comply with the requirements of this act, shall forfeit and pay a sum not less than one hundred dollars and not more than one thousand dollars, and the register of deeds who shall record such plat without such reso-

Plat to be approved by council.

Penalties.

lution of the common council thereto attached, approving the same, shall forfeit and pay a sum not less than fifty nor more than one hundred dollars.

Forfeitures—how prosecuted.

SECTION 27. All forfeitures and liabilities which may be incurred and arise under and by virtue of this act, shall be prosecuted for and recovered in the name of the city of Oshkosh, and paid into the city treasury for the use and benefit of said city.

Mayor *ex officio* member of county board.

SECTION 28. The mayor of said city of Oshkosh shall be *ex officio* a member of the county board of supervisors of the county of Winnebago, and shall have the same power and privileges in said board as other members thereof are entitled to, and shall receive the same compensation for his services.

Special improvements.

SECTION 29. Hereinafter [hereafter] no special improvements shall be ordered by the common council, exceeding in estimated cost the sum of two hundred dollars, unless the owners of more than one-half of the lands to be taxed for such improvement shall petition in writing for the same, or unless the same shall be ordered by a vote of three-fourths of all the aldermen elect.

Parties to deeds.

SECTION 30. When the city of Oshkosh deeds or leases any real estate, or any interest therein, owned by said city, the party of the first part shall be the city of Oshkosh, and the person or persons authorized to execute such deed or lease, need not be named in the body thereof.

Deeds to lands belonging to city

SECTION 31. The mayor of said city is hereby authorized, when the common council shall by ordinance or resolution for that purpose, describing the real estate and interest to be conveyed, order and direct him so to do, to execute a deed or lease of such real estate or interest therein belonging to the said city. The said deed or lease shall be signed by the mayor of said city and countersigned by the city clerk and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided by law for the execution of deeds and leases.

Ordinance to be attested and recorded.

SECTION 32. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true and attested copy of such ordinance or resolution, and the same shall be recorded by the register of deeds with the said deed or lease, and such copy so attached and recorded shall be, in all court [courts] of this state, *prima facie* evidence of the authority of such mayor to make and execute such deed or lease.

REPEALING CLAUSE.

Repeal.

SECTION 33. An act entitled "an act to consolidate and amend the act to incorporate the city of Oshkosh, and the several acts amendatory thereof," approved March 14th, 1856, and the several acts amendatory thereof, and all acts and parts of acts inconsistent and conflicting with the provisions of this act, are hereby repealed; but the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under or by virtue or in pursuance of the said acts or any of them, but the same shall exist and be enforced and carried out as fully and effectually, to all intents and purposes, as if this act had not been passed. And all ordinances, resolutions, regulations, rules, by-laws and orders of the common council of said city, or parts thereof, not repealed, suspended or made void by this act, shall continue and remain of the same force and effect as if this act had not been passed, until altered, amended, repealed or suspended by the common council in pursuance of this act. Nothing in this act shall effect [affect] the present schools of said city.

Remain in force

SECTION 34. This act shall take effect and be in force from and after its passage.

Approved March 22, 1861.

CHAPTER 97.

[*Published March* 23, 1861.]

AN ACT to consolidate and amend the act to incorporate the city of Berlin, and the several amendatory thereof.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

CHAPTER ONE.

Boundaries.

SECTION 1. All that district of country included in sections three, four, nine and ten, and the east half of sections five and eight, in township seventeen, north of

range thirteen east, and all that part of sections thirty-three and thirty-four, in township eighteen, north of range thirteen east, lying south and east of Fox river, shall be known and designated as the city of Berlin, and the people now inhabiting, and those who shall hereafter inhabit, within the district of country herein described, shall be a municipal corporation by the name of the city of Berlin, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers hereinafter specially granted; and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracting [contracted] with, using and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Style.

Corporate powers.

SECTION 2. The said city shall constitute one ward, and the government of said city, and the exercise of its corporate powers and management of its fiscal, prudential and municipal concerns, shall be vested in a mayor and six aldermen, to be elected from the city, who shall constitute the city council, and also in such other officers as hereinafter provided for.

City one ward.

SECTION 3. On the first Tuesday in April, A. D. 1861, there shall be elected in said city one mayor, one city treasurer, six aldermen, one assessor, one justice of the peace, and two constables. The mayor, city treasurer, assessor and justice of the peace, shall each hold their respective offices two years, and until their successors are elected and qualified. Three of the alderman [aldermen] thus elected shall hold their offices two years, and three one year, their respective terms of office to be determined by lot at the first meeting of the citycouncil after their election. The constables shall hold their office one year. After such first election, there shall be elected in said city at each annual charter election (*thereafter,*) three aldermen, one justice and two constables. The city clerk and city marshal now holding those offices in the present city of Berlin, shall continue to hold said offices, respectively, under this charter, until one year from the first Tuesday of April, A. D. 1861, that being the expiration of the term for which they were elected or appointed. On the first Tuesday of April, 1862, and every two years thereafter, there shall be elected in said city, one city clerk

First election—elective officers, and their terms of office.

Subsequent elections.

Officers biennially elected.

CHAPTER 27.

and one city marshal, who shall each hold their office two years, and until their successors are elected and qualified: *provided, however*, the city council shall have power, for good cause, to expel any of their own number, and to remove from office any officer or agent, whether elected or appointed under the city government, due notice being first given to the officer complained of.

Council may expel, &c.

Inspectors of first election.

SECTION 4. The chairman of the board of supervisors of the town of Forsyth, and the two justices of the peace of the city of Berlin, shall be and constitute the board of inspectors of the election to be held the said first Tuesday of April, A. D. 1861, in said city.

Election—notice of, and how conducted.

They shall give at least ten days' notice of the time and place of holding the first election under this act, and of the officers to be elected, by publishing a notice of the same in a newspaper published in said city. Said election shall be held and conducted, and the result thereof canvassed and returns made, in the same manner, and vacancies in the said board of inspectors filled, as required by the law of this state regarding elections.

Vacancies—how filled.

SECTION 5. Whenever a vacancy shall occur in any office in said city, such vacancy shall be filled by the city council. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term of such office, and with the same rights and subject to the same duties and liabilities as the person whose office he may be elected or appointed to fill.

Elections—how conducted.

SECTION 6. The election in said city shall be held and conducted by three aldermen, to be appointed in writing by the mayor at each election, who shall be the inspectors of elections, and shall take the usual oath or affirmation as prescribed by the general laws of this state to be taken by the judges and inspectors of elections, and shall have power to appoint one clerk to assist the city clerk of such elections, and to administer the necessary oaths. Said elections shall be held and conducted and the result thereof canvassed and returns made in the same manner and under the same penalties, and vacancies in the board of inspectors filled, as required by the laws of this state regarding elections. Said inspectors and clerk so appointed by them shall receive two dollars per day for their services in said board of election.

SECTION 7. Any officer removing from the city, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated the same, and the city council shall proceed at the next meeting after such vacancy to fill the same as herein prescribed, and all such vacancies shall be filled by qualified electors residing in said city. What deemed a vacancy.

SECTION 8. The city council shall designate by ballot three aldermen, members of said council, who shall, when so designated, be entitled to become members of the board of supervisors in and for the county of Green Lake, with all the rights, duties and liabilities of the chairman of the board of supervisors of the several towns, for the year they are so designated. Three aldermen to be members of county board.

CHAPTER SECOFD, [TWO.]

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. The mayor and aldermen and all the officers must be residents within the city limits, and every person elected or appointed under this act to any office shall, before he enters upon the duties of said office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the city clerk; and the treasurer, clerk, marshal and such other officers as the city council may direct, shall, severally, before they enter upon the duties of their respective offices, execute to the city of Berlin a bond which [with] at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities; and said bonds shall contain such penal sums and such conditions as the city council shall direct; and said council may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same. The justices of the peace elected under this act shall have the same jurisdiction and perform all the duties of justices of the peace, as provided by the general laws of the state, except that their official bonds, as well as all other bonds required by this act, shall be approved by the city council. Residence of officers. Oath of office. Bonds of officers. Jurisdiction of justices.

SECTION 2. The mayor shall be the chief executive officer and head of the police of the city. It shall be his duty to recommend in writing to the city council Mayor chief of police—his powers and duties.

CHAPTER 97.

such measures as he may deem expedient. He shall sign all commissions, licenses and permits which may be granted by the city council. He shall endeavor to maintain peace and good order, and see that the laws of the state and ordinances of the city are observed and executed. He shall have power to administer oaths and affirmations, and to take and certify acknowledgments of deeds and other instruments in writing, and to prevent and suppress riots or other public disturbances, and he may appoint as many special constables as he may deem proper. The mayor shall have a vote in the council only in case of a tie, and shall preside at all meetings of the city council.

President of council.

SECTION 3. At the first meeting of the city council each year, they shall proceed to elect by ballot one of their number president, and in the absence of the mayor, the said president shall preside over the meetings of the city council, and during the absence of the mayor from the city, or his inability from any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case the mayor and president shall be absent at any meeting of the city council, they shall proceed to elect a temporary presiding officer, who for the time being shall discharge the duties of the mayor. The president or temporary presiding officer, while presiding over the board, or performing the duties of mayor, shall be styled acting mayor. An act performed by them shall have the same force and validity as if performed by the mayor.

erk—his duties

SECTION 4. The clerk shall keep all the papers and the records, and the corporate seal of the city, and keep a record of the proceedings of the city council, at whose meetings it shall be his duty to attend; and copies of all papers filed in his office, and transcripts from the records of the city council, certified by him under the corporate seal, shall be evidence in all courts in like manner as if the original were produced. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose. The clerk shall have power and authority to administer oaths or affirmations, and shall be clerk of all elections held in said city.

SECTION 5. The treasurer of said city shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city, or by the laws of this state. All moneys raised, received, recovered or collected, by means of any tax, license, penalty, fine, forfeiture or otherwise, under the authority of this act, or which belongs to said city, shall be paid into the city treasurer [treasury,] and shall not be drawn therefrom except by an order, signed by the mayor, or acting mayor, by order of the city council, and countersigned and attested by the clerk. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, in a book provided for that purpose, which shall remain the property of the city, wherein he shall note the time when and the person from whom the amount of the several sums were received, which book shall at all reasonable hours be open to the inspection of any person having business therewith. He shall, as often as the city council require, render to said council a minute account of the receipts and expenditures of his office, and at the expiration of his office, he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be the collector of taxes, and for this service, except as herein otherwise provided, he shall have the same powers, and be subject to the same liabilities, be governed by the laws, and receive the same compensation, as treasurers of towns. Treasurer—his duties.

SECTION 6. The marshal shall perform such duties as shall be prescribed by the council, for the preservation of the public peace, and the collection of license money and fines. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and when necessary, in criminal cases, or for the violation of any ordinance of said city, or law of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances, and breaches of the peace, to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and forthwith bring such person before competent authorities for examination, and for such services, he shall Marshal—his duties.

CHAPTER 97.

receive such fees as are allowed to constables for like services. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

Council may require further duties of officers.

SECTION 7. The city council shall have power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed, not inconsistent with the provisions of this act, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers elected or appointed by them. Such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the time such officer shall remain in office.

Official paper.

SECTION 8. The city council, at their first annual meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers printed in said city, in which shall be published all ordinances and other proceedings required by this act, or by the by-laws or ordinances of the city council, to be published in a newspaper.

Affidavit of printer.

SECTION 9. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution.

Officers refusing to deliver books, &c., to successors—penalty.

SECTION 10. If any officer, after his term of office shall have duly expired, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, or shall willfully retain the same, he shall forfeit and pay to the use of said city one hundred dollars, besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the same manner as prescribed by the laws of this state.

Aldermen shall not be interested in contracts, &c.

SECTION 11. No alderman or mayor shall be a party to or directly interested in any job or contract with the city or any of the wards, and any contract in which any alderman may be so interested, shall be null and void, and in case any money shall have been paid on any such contract, the city council may sue for and recover the amount so paid from the parties to such contract and the aldermen interested in the same.

Peace officers.

SECTION 12. The mayor or acting mayor and each and every alderman, justice of the peace, marshal, constable and watchman shall be officers of the peace, and may command peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of said city, and for such purposes may command the assistance of all bystanders and, if need be, of all citizens and military companies, and if any person, bystander, military officer or private shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars; and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

Surveyor.

SECTION 13. There may be elected by the city council a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the city council shall prescribe his duties and fix his fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the city clerk, open to the inspection of parties interested.

CHAPTER THIRD, [THREE.]

THE CITY COUNCIL—ITS GENERAL POWERS AND DUTIES.

Style of ordinances.

SECTION 1. The mayor and aldermen shall constitute the city council, and the style of all ordinances shall be, "The mayor and city council of the city of Berlin do ordain," &c. Stated meetings of the council shall be held in accordance with the by-laws or ordinances of said city, but the council may by resolution hold meetings at any other time. The mayor may call

CHAPTER 97.

Stated and special meetings.

special meetings by notice to each of the members, to be served personally, or left at their usual place of residence. Any ordinance passed at any special meeting so held shall have the same authority as though it were passed at a stated meeting. A majority of the aldermen shall constitute a quorum.

Qualification of members.

SECTION 2. The city council shall determine the rules of its proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members.

General powers of council.

SECTION 3. The city council shall have the management and control of the finances, and of all the property of the city, and it shall likewise, in addition to the powers herein vested it them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify and amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, and for the prevention of crime, and for the benefit of the trade, commerce and health thereof, as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by-laws; and such ordinances, rules and by-laws are hereby declared to be, and have the force of law: *provided*, that they be not repugnant to the constitution and laws of the United States or this state; and for such purposes shall have authority by ordinances, resolutions and by-laws:

Proviso.

Shows, &c.

1st. To license and regulate the exhibition of common showmen, and shows of any kind, or the exhibition of caravans, circusses or theatrical performances; and to provide for the abatement and removal of all nuisances under the ordinances or common law.

Gaming, selling liquor without license, &c.

2d. To restrain and prohibit all descriptions of gaming devices and practices, and all playing of cards, dice or other games, and all horse racing in said city, and to restrain any person from vending, giving away to evade the law, or dealing in spirituous, fermented or vinous liquors, contrary to law. It shall be the duty of the mayor to prosecute for any and all penalties incurred for any violation of any of the provisions of this charter, or any by-law enacted by virtue of this charter, or for any violation of any law of this state within the limits of the said city of Berlin, (*Berlin.*)

3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming. Riots, &c.

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler's shop, soap factory, tannery, stable, barn, privy, sewer or any unwholesome nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city. Cleanse unclean places.

5th. To direct the location and management of slaughter houses and markets, and to establish rates for, and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder and other combustible materials. Slaughter houses &c.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys, with carriages, carts, wagons, sleighs, boxes, lumber, fire-wood or any other materials or substances whatever. Encumbering streets, &c.

7th. To prevent immoderate riding or driving in the strsets, and to regulate the places of bathing or swimming in the waters within the limits of said city. Immoderate driving, bathing, &c.

8th. To restrain the running at large of cattle, swine, sheep, horses and poultry, and to authorize the distraining and sale of the same. Cattle.

9th. To prevent the running at large of dogs, and to authorize the destruction thereof in a summary manner when at large contrary to any ordinance. Dogs.

10th. To prevent any person from bringing or depositing, or having within said city, any putrid carcass or any other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unwholesome or unsound beef, pork, fish, hides or skins of any kind, and in default of which, to authorize the removal thereof of [by] some competent officer, at the expense of such person or persons. Putrid carcasses, &c.

11th. To make and establish public pounds, pumps, wells, fountains, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants, to erect lamps, and regulate and license hacks, cabs, drays, carts, and the charges of hackmen, cabmen and draymen in the city, and to Pounds, pumps, lamps, hacks, &c.

CHAPTER 97.

provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Boards of health &c.

12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and to exempt burial grounds from taxation.

Bread.

13th. To regulate the assize and weight of bread, and to provide for the seizure and forfeiture of bread baken contrary thereto.

Driving on sidewalks, &c.

14th. To prevent all persons riding or driving any mule, cattle, horse or any other animal, on sidewalks in said city, or in any way doing any damage to such sidewalks.

Firearms, fireworks, &c.

15th. To prevent the shooting of fire-arms or crackers, and to prevent the exhibition of any fireworks in any place which may be considered by the council dangerous to the city or any property therein, or annoying to any citizen thereof.

Drunkenness and obscenity.

16th. To restrain drunkenness or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners.

17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses or other establishments, and to regulate the police of the city.

Markets.

18th. To establish public markets and make rules and regulations for the government of the same, to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the observance of such rules and regulations.

Butchers' stalls.

19th. To license and regulate butcher stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.

Hay, fuel, &c.

20th. To regulate the place and manner of weighing hay and the selling [of] the same, and measuring and selling fuel, lime and stone, and to appoint suitable persons to superintend and conduct the same.

Remove rubbish &c.

21st. To compel the owners or occupants of buildings or grounds to remove snow, dirt or rubbish from the roofs, sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him all such substances as the board of health shall direct, and in default to authorize the removal or destruction thereof by some

officer of the city, at the expense of such owner or occupant.

22d. To regulate the construction of piers or wharves on the Fox river, within the limits of said city, and to prescribe and control the prices to be charged for pierage or wharfage thereon. Piers and wharves.

23d. To regulate the time and place and manner of holding public auctions and vendues. Auctions.

24th. To appoint fire wardens and watchmen, and prescribe their duties. Fire-wardens, &c.

25th. To provide, by ordinance, for a standard of weights and measures, and for the punishment of the use of false weights and measures. Weights, &c.

26th. To protect trees and monuments in said city. Trees, &c.

27th. To prescribe and regulate the manner of draining fountains made by individuals, and the construction of sewers in said city. Fountains, &c.

28th. To lay out, make, open, keep in repair, grade or discontinue any highways, streets, lanes, alleys and sidewalks and bridges, and to keep them free from encumbrances, and to protect them from injury. Streets, &c.

29th. To cause all out or in lots within said city of less size than ten acres each, that have not been platted and recorded by the owners thereof, as required by law, to be platted and recorded by authority of the board, and to tax the charges for the said services against the lot or lots so platted and recorded, to be collected the same as other corporate or general taxes. To plat lots.

30th. To have a common seal, and to alter the same at pleasure. Seal.

SECTION 4. All laws, ordinances, regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the city council, and shall be signed by the mayor, and shall be published in the official [paper or] papers of the city before the same shall be in force, and within fifteen days thereafter shall be recorded by the city clerk in books provided for that purpose; but before any of said laws, ordinances or regulations or by-laws shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, [or the foremen or publishers of such newspapers,] and said affidavit shall be recorded therewith at all times. Such affidavits or recordeds [records] shall be deemed and taken as sufficient evidence of the fact contained therein. Passage of ordinances, &c. Proof of publication, &c.

CHAPTER 97.

Abatement of nuisances, and suits relative thereto.

SECTION 5. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Depots, houses or buildings of any kind, wherein more than ten pounds of gun-powder are stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses and places where spirituous, vinous or fermented liquors are sold without the licenses therefor required, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Council to examine and audit accounts of officers, &c.

SECTION 6. The common council shall examine, audit and adjust the accounts of [the] clerk, treasurer, school superintendent, marshal, constables, and all other officers and agents of said city, at such times as they may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed, shall have expired; and the city council shall require each and every such officer and agent to exhibit his books, accounts and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the said council in the discharge of their said duties, in pursuance of this section, or shall refuse or neglect to render his account or present his books and vouchers to said council, it shall be the duty of the city council to declare the office of such person vacant; and the city council may order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

CHAPTER FOURTH, [FOUR.]

FINANCES AND TAXATION.

City funds and orders.

SECTION 1. All funds in the treasury, except school and county funds, shall be under the control of the city council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the city council; and all orders drawn upon the treasury shall specify the purpose for which they are drawn, and shall be payable out of such funds as may be ordered

by the council, in the hands of the treasurer, and all such orders shall be received in payment of any tax raised for the fund upon which they may be drawn. All orders shall be payable to the person in whose favor they may be drawn, and shall be transferred by delivery.

City tax.

SECTION 2. For the discharge of any debts against said city, or expenditures authorized by the city council under the provisions of this act, or ordinance of said city, or to defray the current expenses of said city, the city council shall have power to levy and collect, annually, a tax on all such real and personal property, or capital of any kind, within said city, subject to taxation by the laws for levying taxes for this state, for the time being, but such tax shall not exceed ten mills on the dollar per annum of the assessed value of such property.

Special tax.

SECTION 3. Special taxes for the purchasing [of] fire engines, buckets, hose and ladders and other instruments for suppressing fires, the purchase of materials and the erection of engine houses, and the purchase of lots for the same, or for the purchase of lots in a cemetery and improving the same, for erecting any public buildings for the use of said city, or any other necessary purpose, and for improving any public grounds in said city, may be voted by the council at any regular or special meeting; but no such special tax shall be levied and collected until it shall be confirmed by a majority of the electors of said city who shall vote upon the quostion of raising said tax, at a special election to be held for that purpose. Such elections shall be conducted and the returns made in the same manner as other city elections. The votes at such election shall be by ballot, and the city council shall publish in some newspaper printed in said city, for at least three weeks before such election, a notice of the time and place of holding such election, which notice shall specify the object for which such special tax has been voted by said council, and shall prescribe the form of the ballots to be voted at such election. Such special taxes shall be collected at the same time and in the same manner as other city taxes are collected: *provided*, that said council shall incur no indebtedness in the name of said city, either for general purposes or the special purpose above provided for, except when the provisions

To be confirmed by vote of electors.

Proviso.

CHAPTER 97.

of this charter authorize them to levy a tax for the payment of such indebtedness; and if they shall incur any such indebtedness, the said city shall not be charged therewith, or be liable for the payment of the same, but such indebtedness shall constitute a just and proper claim in law against the officers creating the same, to be enforced in an ordinary action at law in any court of competent jurisdiction.

Subject to local taxes.

SECTION 4. Real estate exempted from taxation by the laws of this state, shall be subject to local taxes for [the] building and improving of sidewalks.

Bridges under control of council.

SECTION 5. The bridges within the limits of said city shall be under the charge and control of the city council, and the charges and expenses necessarily incurred in opening, taking care of, repairing or reconstructing said bridges, or any of them, or any part thereof, shall be chargeable to and payable out of the general city fund.

CHAPTER FIFTH, [FIVE.]

OPENING OF STREETS, &C.

Power of council over streets, &c.

SECTION 1. The city council shall have power and authority to lay out new highways, streets, alleys and public walks, and vacate and alter the same; to regulate, grade, pave and improve streets, avenues, lanes and alleys, and to extend, open and widen the same: *providing*, said council shall in no case lay out any highway, street or alley, or alter or vacate the same, except upon petition in writing signed by ten or more freeholders of said city.

Condemning premises for public use.

SECTION 2. The council shall, by a general ordinance, prescribe the mode of procedure in condemning premises for public use, the manner of notifying the parties interested in such premises, and of estimating the damages to be paid to the owner or owners of the property proposed to be taken, and also the mode of ascertaining what lands or premises will be benefited by such taking: *provided, however*, that no ordinance shall be passed which shall not require notice, either actual or constructive, to the parties interested in the premises proposed to be taken, of the time, place and manner of appointing or drawing a jury to assess the damages, and of the time when the damages or benefits

Notice to parties interested.

will be assessed, or that shall attempt to take away from the parties interested their right of assessment by jury, of appeal to the circuit court, or to compensation, before such property shall be taken.

Appeal.

SECTION 3. Any person being dissatisfied with the amount of compensation for property taken, or the amount assessed as benefits, shall have the right to appeal to the circuit court within twenty days from the time of the awarding of compensation or assessment of benefits, by giving a bond to the city in not less than one hundred dollars, to be approved by the mayor, acting mayor, or city clerk, to pay all costs of appeal. In case the appellant shall not upon such appeal increase the amount of compensation, or decrease the amount assessed as benefits, as the case may be, the city council may appeal in behalf of the city, by giving notice to the opposite party without giving bond.

CHAPTER SIXTH, [SIX.]

CITY IMPROVEMENTS.

Sidewalks.

SECTION 1. Whenever the city council shall deem it necessary to construct or repair any sidewalk in said city, they shall direct the owner or occupant of any lot adjoining such sidewalk to make or repair the same at his own proper charge and cost. If such work is not done in the time and manner prescribed, the city council shall cause the same to be done at the expense of the lots adjoining such sidewalk. The city council shall have power to order and contract for the making, grading, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters and sewers within the city. The opening, grading, graveling, planking, improving or paving [of] streets and alleys, to the center thereof, shall be chargeable to and payable by the lots fronting or opposite to such street or alley; but no street or alley shall be graded, graveled, planked, improved or paved, except upon the petition of two-thirds of the property holders interested therein, and built at the expense of the lots or parcels of land benefited thereby, which shall be apportioned among said lots or parcels of land by the street commissioners: *provided, however*, that in all cases where improvements or works of any kind are chargeable by virtue of this section,

Streets, &c.

How improvements chargeable.

Proviso.

CHAPTER 97.

upon lots benefited, all such improvements across streets, alleys, and public grounds shall be made and paid for out of the funds of the city.

Notice to owners by publication.

SECTION 2. Whenever the city council shall determine to make any improvement as authorized by section 1st of this chapter, they shall give notice by advertisement, for ten days, in one or more public newspapers published in the city, to the owners or occupants of the lots or parcels of land fronting on any street, alley or sidewalk ordered to be graded, graveled, planked or paved, requiring them to do the work mentioned in such notice; and [if] the said work shall not be done within such time, the city council shall enter into contract for the doing thereof.

Abatement of nuisances—notice to be given.

SECTION 3. The city council shall give ten days' notice in the official paper or papers, to all owners or occupants of lots which may be deemed injurious to health, by reason of stagnant water remaining thereon, to abate such nuisance by draining or filling such lot, within a time in said notice to be specified, and if such nuisance shall not be abated or removed within the time so specified, they shall cause the same to be abated and removed at the expense of the property upon which the same may exist.

Taxes for improvements—if not paid, how collectable.

SECTION 4. After the completion and performance of any contract entered into by the city council for the work chargeable to the lots or lands by virtue of this act, the city clerk shall as soon as practicable thereafter, make out and file in his office a statement in writing, signed by the clerk and mayor of said city, stating therein the amount of work done chargeable to said lots or lands, the nature thereof and the description of land upon which the same is chargeable; and if the amount thereof shall not be paid before the levying of the taxes for the current year, the same shall be levied and collected of the said lots or parcels of lands respectively, as other taxes on real estate are collected, and of [if] the notice to do the work required shall have been given as herein provided, no informality or error in the proceedings shall vitiate the proceedings.

Road tax—how collected and expended.

SECTION 5. There shall be levied annually by the city council, upon the taxable property of said city, a road tax, not exceeding one per cent. of the assessed valuation of the taxable property of said city; said tax to be collected by the city treasurer at the time other

taxes are collected, and shall be expended by the city council in opening, improving or repairing any public highway leading into said city, at such place or places or [as] the said council shall deem most conducive to the general good, whether within or without the city limits. To this end, a road commissioner shall be appointed by the said council, who shall hold his office during the pleasure of said council, shall give bonds to the city for the faithful performance of the duties of his office, in such sum and with such sureties as the said council shall direct. Said road commissioner shall disburse and expend the said road tax, at such places as the council shall decide, and shall in all respects be subject to the order of said council. He shall also perform such other duties as shall be prescribed by said council, and his compensation shall be regulated by said council. There shall be no poll tax collected or levied in said city.

Road commissioner—his duties.

CHAPTER SEVEN.

FIRE DEPARTMENT.

Council to prescribe fire limits and prevent construction of wooden buildings.

SECTION 1. The city council, for the purpose of guarding against the calamities of fire, shall have power to prescribe limits within which wooden buildings or buildings of other materials that shall not be considered fire-proof, shall not be erected, placed or repaired, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining that damage.

To prevent construction of dangerous chimneys &c.

SECTION 2. The city council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearth-stones, stove-pipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places, and to require the inhabitants to provide as many fire buckets, and in such manner and time as they shall prescribe, and to regulate the use of them in time of fire; to

Fire buckets.

CHAPTER 97.

regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires; to regulate and prevent the use of fire-works and fire-arms; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city, to keep away from the vicinity of any fire all idle and suspected persons; and to compel all bystanders to aid in the extinguishing of fires and in the preservation of property exposed to danger thereat, and, generally, to establish such regulations for the prevention and extinguishment of fires as the city council shall deem expedient.

Duty of officers at fires.

Fire engines and companies.

SECTION 3. The city council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of eighteen and fifty years, and may elect their own officers and form their own by-laws, not inconsistent with the laws of this state or the ordinances or regulations of said city, and shall be formed only by voluntary enlistment. Each member of such company authorized to be formed, shall be exempt from serving on juries, and from military duty, during the continuance of such membership; and any person having served for the term of seven years in either of said companies, shall be forever thereafter exempt from serving on juries, and from military duty, except in case of insurrection or invasion.

Meeting of fire companies to nominate engineer, &c.

SECTION 4. There shall be a meeting of the members of said companies on the second Monday of April in each year, at such place as may be designated by the city council, when they may nominate and recommend to the city council for appointment, one chief engineer and three assistant engineers, and the said council shall thereupon confirm said nominations, and the person so appointed shall perform such duties as the city council shall prescribe; and they may at any time enter into, or upon, any house, store or other building or enclosure, for the purpose of inspecting the same,

Fines.

SECTION 5. One-half of the net proceeds of all fines or penalties recovered for the breach of any ordinance, by-law or regulation, made in pursuance of this chapter, shall be paid to the fire department.

Arrest at fires of persons disobeying orders of officers, &c.

SECTION 6. Whenever any person shall refuse to obey any lawful order of any engineer, fire-warden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally the marshal, constable, watchman or any person, to arrest such person, and confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the city council may prescribe, not exceeding fifteen dollars.

To further protect from fires.

SECTION 7. The city council shall have power to organize such other companies, and make such further regulations as they may deem proper for the protection of property in said city from fire, and may enforce the same by adequate fines and penalties.

CHAPTER EIGHT.

MISCELLANEOUS PROVISIONS.

Appropriations.

SECTION 1. No money shall be appropriated for any purpose whatever, except such as are [may be] expressly authorized.

Judgments, &c., how remitted.

SECTION 2. No penalty or judgment recovered in favor of the city, shall be remitted or discharged except by a vote of two-thirds of all the aldermen elect.

Actions by city.

SECTION 3. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police of health regulations, made in pursuance thereof, shall be brought in the corporate name of the city.

How bridges across the Fox to be built, &c.

SECTION 4. Bridges shall be maintained, supported and built across Fox river in said city, where the same may be necessary or convenient, at the expense of the city.

CHAPTER 97.

Protection of bridges.

SECTION 5. The general laws for the preservation of bridges, and the punishment by such laws provided for the willful and malicious injuries thereto, are hereby extended to such bridges, and the city council may make such by-laws and regulations for the preservation of such bridges, and enforce the same by adequate penalties; and for any injury done thereto by boats or vessels, may proceed against them under the law to provide for the collection of demands against boats and vessels.

Suits against city.

SECTION 6. When any suit or action shall be commenced against said city, the service of process therein may be made by leaving a copy thereof by the proper officer, with the mayor, and it shall be the duty of the mayor forthwith to inform the city council thereof, or take such other proceedings as by the ordinances or resolutions of the said council, may in such cases be provided.

Grade.

SECTION 7. The city council may at any time, under the direction of a surveyor to be appointed by them, cause to be established the grade of all streets, sidewalks and alleys in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the city clerk.

Commissioners to draft ordinances, &c.

SECTION 8. The city council may appoint one or more commissioners, whose duty it shall be to report to the city council, within a reasonable time, a draft of all ordinances, by-laws, rules, regulations and forms that may be necessary to carry this act fully into effect, and more fully to define the powers and duties, and fix the compensation of the several offices created or authorized by this act. The said ordinances, by-laws, &c., when they shall have been adopted by the city council, shall be published in a convenient form, and the same when so published shall be admitted as evidence in any court within the state of the passage and publication of such ordinances, without any further publication in the official paper: *provided*, that the mayor and council of said city shall be entitled to no compensation for their services under the provisions of this act.

No compensation to mayor and council.

City may hold real estate, &c.

SECTION 9. The said city may lease, purchase and hold real or personal estate, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation.

SECTION 5. One-half of the net proceeds of all fines or penalties recovered for the breach of any ordinance, by-law or regulation, made in pursuance of this chapter, shall be paid to the fire department. Fines.

SECTION 6. Whenever any person shall refuse to obey any lawful order of any engineer, fire-warden, mayor or alderman, at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally the marshal, constable, watchman or any person, to arrest such person, and confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the city council may prescribe, not exceeding fifteen dollars. Arrest at fires of persons disobeying orders of officers, &c.

SECTION 7. The city council shall have power to organize such other companies, and make such further regulations as they may deem proper for the protection of property in said city from fire, and may enforce the same by adequate fines and penalties. To further protect from fires.

CHAPTER EIGHT.

MISCELLANEOUS PROVISIONS.

SECTION 1. No money shall be appropriated for any purpose whatever, except such as are [may be] expressly authorized. Appropriations.

SECTION 2. No penalty or judgment recovered in favor of the city, shall be remitted or discharged except by a vote of two-thirds of all the aldermen elect. Judgments, &c., how remitted.

SECTION 3. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police of health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. Actions by city.

SECTION 4. Bridges shall be maintained, supported and built across Fox river in said city, where the same may be necessary or convenient, at the expense of the city. How bridges across the Fox to be built, &c.

CHAPTER 97.

Duties of superintendent.

SECTION 3. The said superintendent of schools shall be *ex officio* president of the board of education, and shall have a casting vote in said board in all cases of a tie, and shall perform all the duties, and shall have the same rights and powers within said city, and be subject to the same liabilities as superintendent of schools in towns, (except that his official bond shall be approved by the city council and filed with the clerk,) except as otherwise provided in this act.

First meeting of commissioners—to be divided into two classes.

SECTION 4. Within ten days after their election, as in the last section mentioned, said commissioners shall meet at the room of the city council in said city, and cause the said commissioners so chosen to be divided into two classes, by lot, to be denominated the first and second. The term of office of the first class shall expire at the end of one year from the election; the second at the end of two years.

Annual election of commissioners.

SECTION 5. There shall, in like manner, in each year thereafter, at the annual charter election in said city, be elected three commissioners of schools in said city, to supply the places of those whose term of office is about to expire. They shall hold their offices for two years, and until their successors are elected and have taken the oath of office.

Vacancies.

SECTION 6. The city council of said city may make appointments of commissioners of common schools to fill vacancies which may occur from any cause other than the expiration of the term of office of those elected. The commissioners so appointed shall hold their office until the next charter election.

Council may remove, &c.

SECTION 7. Any commissioner of common schools, in said city, may be removed from office for official misconduct, by the city council thereof, by a vote of two-thirds of the members thereof; but said commissioner shall be granted a full and fair hearing before removal.

Style.

SECTION 8. The commissioners of common schools in said city, shall constitute a board to be styled the "board of education of the city of Berlin," which shall be a corporate body in relation to all the powers and duties conferred on them by virtue of this act. A majority of the board shall form a quorum. At their first meeting after each annual charter election, said board shall elect one of their number president, who shall, in the absence of the superintendent, preside at the meetings of said board, and perform his duties.

Election of president.

In the absence of both superintendent and president, a president *pro tempore* may be appointed.

Clerk to keep record, &c.

SECTION 9. The clerk of said board shall keep a record of the proceedings thereof, and perform such other duties as the board may prescribe; which record or transcript thereof, certified by the president and clerk, shall be received in all courts as *prima facie* evidence of the facts therein set forth; and such records, and all the books and accounts of the said board, shall at all times be subject to the inspection of the city council, and of any committee thereof.

Tax.

SECTION 10. The city council of the said city shall have the power and it shall be their duty to raise from time to time, by tax upon the real and personal estate in said city, which shall be liable to taxation for the ordinary city taxes, or for city or county charges, in addition to the amount of school moneys now or hereafter appropriated or provided by law for common schools in said city, such sums as may be determined and certified by the said board of education to be necessary or proper for any or all of the following purposes:

School sites, &c.

1st. To purchase, lease or improve sites for school houses.

School houses, &c.

2d. To build, purchase, lease, enlarge, alter, improve and repair school houses, and their out houses and appurtenances.

Books, &c.

3d. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages; but the power herein granted shall not be deemed to [include] the furnishing [of] class or text books for any scholar whose parents or guardian shall be able to furnish the same.

Fuel, &c.

4th. To procure fuel and defray the contingent expenses of the common schools and the expenses of the district library of said city.

Teachers' wages, &c.

5th. To pay the wages of teachers due, after the application of the public moneys, which may by law be appropriated and provided for that purpose: *provided, nevertheless*, that no tax shall be laid [levied] for such purpose oftener than once in each year; *and provided, also*, that the amount to be raised for teachers' wages and for contingent expenses in any one year, shall in no case exceed four dollars for each person that draws public money, nor less than two dollars; that the amount to

One tax only to be levied each year.

CHAPTER 97.

Limit of tax.

be raised in any one year, for buying sites and erecting and repairing school houses and the appurtenances, shall not exceed one thousand dollars, save as excepted in the 27th section of this act, [chapter.]

How taxes levied and collected.

SECTION 11. The city council shall cause the tax or taxes herein provided for, to be levied and collected annually on all such real and personal property, or capital of any kind within said city, as is subject to taxation by the laws for levying taxes for the state for the time being; said taxes to be levied and collected in the same manner as annual taxes are levied and collected in said city.

All moneys to be paid treasurer, and he accountable therefor.

SECTION 12. All moneys to be raised pursuant to the provisions of this act, and all school moneys by law appropriated to, or provided for said city, shall be paid to the treasurer of said city, who, together with the sureties of his official bond, shall be accountable therefor, in the same manner as for other moneys of said city. The said treasurer shall also be liable to the same penalties for any official misconduct in relation to the said moneys, as for any similar misconduct in relation to the other moneys of the city.

Treasurer to pay out moneys only on orders.

SECTION 13. After the passage of this act, the treasurer of said city shall not pay out any moneys in his hands, received by said city, either as school moneys, or collected or received by virtue of any of the provisions of this act, excepting upon an order drawn upon him and signed by the superintendent and clerk of said board of education, and no such order shall be drawn except by virtue of a resolution of the said board.

Suits against treasurer.

SECTION 14. The said board may cause a suit or suits to be prosecuted in the name of the city of Berlin, upon the official bond of the treasurer, or of any collector of said city, for any default, delinquency or official misconduct in (*the*) relation to the collection, safe keeping or payment of any moneys in this section mentioned.

Powers of board.

SECTION 15. The said board shall have power, and it shall be their duty:

Organize schools

1st. To establish and organize such and so many schools in said city, (including the common schools now existing therein,) as they shall deem requisite and expedient, and to alter and discontinue the same.

Purchase school houses, &c.

2d. To purchase or hire school houses, and rooms, and lots, and sites for school houses, and to fence and improve them as they deem proper.

3d. Upon such lots, and upon any sites now owned by said city, to build, enlarge, alter, improve, and repair school houses, [as] they may deem advisable. Erect school houses, &c.

4th. To purchase, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools, and defray their contingent expenses, and the expenses of the district library. Purchase books, &c.

5th. To have the custody and safe keeping of the school houses, out houses, books, furniture and appendages, and to see that the ordinances of the city council in relation thereto, are observed. Custody of school houses, &c

6th. To contract with and employ all teachers in the common schools, and the high school, who shall have been licensed by the president, and at their pleasure to remove them. Employ teachers

7th. To pay the wages of such teachers out of the school moneys, which shall be appropriated and provided in said city, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised for that purpose by section nine [ten] of this act, [chapter,] by tax upon the city. Pay teachers.

8th. To defray the necessary contingent expenses of the board. Contingent expenses.

9th. To have in all respects the superintendence, supervision and management of the common schools in said city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils, and their transfer from one school to another, and, generally, for their good order, prosperity and public utility. General superintendence of schools, &c.

10th. Whenever, in the opinion of the board, it may be advisable to sell any of the school houses, lots or sites, or any of the school property now or hereafter belonging to the city, to report the same to the city council. Sell school houses, &c.

11th. To prepare and report to the city council such ordinances and regulations as may be necessary or proper for the protection, safe keeping, care and preservation of school houses, lots and sites, and appurtenances, and all the property belonging to the city, connected with, or appertaining to the schools; and to suggest proper penalties for the violation of such ordinance and regulations, and annually to determine Prepare ordinances, &c., and determine tax to be raised.

CHAPTER 97.

and certify to said city council the sums in their opinion necessary or proper to be raised under the ninth [tenth] section of this act, [chapter,] specifying the sums required for each of the purposes therein mentioned, and the reason therefor.

Pay adjoining districts, &c.

12th. To provide for the payment of any adjoining school district the proper amount to which it may be entitled on account of such district, in whole or in part, having been connected with territory now included in said city.

Non-resident scholars.

SECTION 16. The said board of education shall have power to allow the children of persons not residents within the city, to attend any of the schools of said city, under the care and control of said board, upon such terms as such board shall by resolution prescribe, fixing the tuition that shall be paid therefor.

Expenditures not to exceed tax.

SECTION 17. It shall be the duty of said board in all their expenditures and contracts to have reference to the amount of moneys that shall be subject to their order during the then current year, for the particular expenditure in question, and not to exceed such amount.

District library—duty of board.

SECTION 18. The said board of education shall be trustees of the district library in said city, and all the provisions of law which now are, or may hereafter be passed, relating to district school libraries, shall apply to the said board in the same manner as if they were trustees of an ordinary school district. They shall also be vested with the discretion as to the disposition of the moneys appropriated by any law of the state for the purchase of libraries, which is therein conferred upon the inhabitants of school districts. It shall be their duty to provide a library room and the necessary furniture therefor, and appoint a librarian, to make all purchases of books for the said library, and from time to time to exchange or cause to be repaired the damaged books belonging thereto.

Annual report—what to show.

SECTION 19. It shall be the duty of the said board, at least fifteen days before the annual election for commissioners in each year, to prepare and report to the city council, true and correct statements of the receipts and disbursements of moneys under and in pursuance of the provisions of this act during the preceding year, in which account shall be stated under appropriate heads:

Moneys received under sec. 10.

1st. The moneys received by the city council under the ninth [tenth] section of this act, [chapter.]

2d. The school moneys received by the treasurers of the city from the county treasury. Money received of co. treasurer.

3d. All other moneys received by the treasurer, subject to the order of the board, specifying the sources. Other moneys received.

4th. The manner in which such sums of money shall have been expended, specifying the amount paid under each head of expenditure. And the city council shall, ten days before such election, cause the same to be published in at least one of the newspapers published in said city. Manner of expenditure.

SECTION 20. The said board shall be subject from time to time [to] the rules and regulations made by the state superintendent of common schools, so far as the same may be applicable to them, and not inconsistent with the provisions of this act. Board subject to rules of state superintendent.

SECTION 21. The superintendent of schools shall be the executive officer of the board of education, shall examine all teachers making applications for schools, (examinations to be public and in the presence of the board,) shall grant certificates to such persons so examined as shall be deemed by him and a majority of the board suitably qualified, and shall carry into effect the ordinances of the common council, and the rules and regulations of the board in reference to the common schools. He shall also be specially charged with the care and custody of the several school houses of the city, and under the direction of the board shall superintend the building, enlarging, improving, furnishing and repairing of all the school houses ordered to be erected by them, and the making of all repairs and improvements on and around the same. In addition to the foregoing duties, he shall visit the common schools of the city at least twice during each term, and report their condition to the board, with such suggestions for their improvement as he may deem proper. He shall also perform such other duties with respect to such schools as the board may assign him. The amount of his compensation shall be determined by the city council, and the manner of its payment. Superintendent to be executive officer of board—his duties.

SECTION 22. It shall be the duty of the superintendent, between the first and fifteenth days of October, in each year, to make and transmit to the clerk of the board of supervisors of the county a report in writing, bearing date on the first day of October, in the year of its transmission, stating: Report of superintendent.

CHAPTER 27.

Schools taught, 1st. The number of schools taught within the city, and the length of time they have been taught by qualified teachers.

Moneys received. 2d. The total amount of public money received for the use and benefit of such schools.

Children taught, &c. 3d. The number of children taught in the common schools of the city, and the number of children residing in the city over the age of four and under the age of twenty years.

Expenditures. 4th. The manner in which the public moneys have been expended, and whether any, and what part, remains unexpended, and for what cause.

Amount raised for teachers' wages, &c. 5th. The amount of money raised in the city, and paid for teachers' wages, in addition to the public money raised therefor; the amount of taxes raised for the purchase of school house sites, for building, hiring, purchasing, repairing and insuring school houses, for fuel, for district libraries, or for any purpose allowed by law in said city, since the date of the last preceding report, with such other information as the state superintendent may, from time to time, require.

Ordinances, &c. SECTION 23. The city council of the said city shall have the power, and it shall be their duty, to pass such ordinances and regulations as the board of education may report as necessary and proper for the protection, safe keeping, care and preservation of the school houses, lots, sites and appurtenances, and all necessary property belonging to or connected with the schools in said city, and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in the act of incorporation of said city; and all such penalties shall be collected in the same manner that the penalties for a violation of the city ordinances are by law collected, and when collected, shall be paid to the treasurer of the city, and be subject to the order of the board of education, in the same manner as other moneys raised pursuant to the provisions of this act.

Penalties and their collection.

Sale of school houses, &c. SECTION 24. Whenever the said board shall report to the city council that it is advisable to sell any of the school houses, lots or sites, or any of the school property now or hereafter belonging to the city, it shall be the duty of the city council to sell the same without unreasonable delay, and upon such terms as the city council may deem advisable. The proceeds of all such sales shall be paid to the city treasurer, and shall be

Expenditure of proceeds.

subject to the order of said board, to be expended by them in purchase, leasing, repairs or improvements of other school houses, lots, school furniture, apparatus or appurtenances: *provided*, that a school house shall be erected at some convenient place within the city now known as the town of Forsyth, which house shall be of sufficient size and capacity to accommodate one hundred and sixty pupils; and a school shall be kept and maintained in said school house for the same length of time in each year that shall be determined for other intermediate schools within the city.

School house in that part of city known as town of Forsyth.

SECTION 25. The title of the school houses, sites, lots, furniture, books, apparatus and appurtenances, and all other property in this act mentioned, shall be vested in the city of Berlin, and the same, while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever; and the said city in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise for the use of the common schools of the said city, whether the same shall be transferred in terms to said city, by its proper style, or by any other designation, or to any person or persons, or body, for the use of said schools.

Title of school houses, &c.

Not subject to execution, &c.

SECTION 26. All moneys required to be raised by virtue of this act, on being raised as herein provided, shall be held by the treasurer of said city, and by him placed to the credit of said board of education, and shall be drawn out in pursuance of a resolution or resolutions of said board, by drafts drawn by the superintendent and countersigned by the clerk of said board, payable to the person or persons entitled to receive such moneys; and the said treasurer shall keep the funds authorized by this act to be received by him, separate and distinct from any other fund that he is or may by law be authorized to receive.

Moneys to be placed to credit of the board—how drawn, &c.

SECTION 27. It shall be the duty of the said board of education to ascertain and report to the city council of said city the amount of any and all indebtedness of each of the present school districts within said city, and to whom due, and when and how payable; and the said city council shall have the power, and it shall be their duty, in each year that such (*any*) indebtedness

Indebtedness of present school districts.

CHAPTER 97.

shall become due, or any portion thereof, to cause the amount so becoming due from any of said districts to be assessed upon and collected from the taxable property within the said city, in the same manner as the taxes for contingent expenses are assessed and collected, for the use of said board of education in the payment of such indebtedness.

Union school.

SECTION 28. It shall be the duty of the board of education, and they shall have the power, to procure a site in a central part of the city of Berlin, within eighty rods of the bridge at the foot of Huron and Broadway streets in said city, and cause to be erected thereon a suitable and proper edifice for a union or high school, at as early a period as practicable, and cause a statement of the cost of said site and building to be laid before said city council of said city, who shall have the power, and it shall be their duty, to borrow a sum of money not less than six thousand nor more than ten thousand dollars, for the payment of any amount or amounts contracted to be paid by said board of education for the erection of said union [or] high school edifice, and to execute bonds therefor under the common seal of said city, and the signature of the mayor and clerk thereof. The loan of the sum hereby authorized shall be for a term not exceeding ten years, and shall be paid in manner stipulated by said city council, and the interest thereon shall be paid annually; and the said city council are authorized, and it shall be their duty, to raise by tax, in manner specified in the ninth [tenth] section of this act, [chapter,] the annual interest of the above named loan, and to pay over the same in discharge of such interest; and also to raise, levy and collect, in the same manner, any sum or sums necessary to meet the conditions of said loan, and to pay over the same in the discharge thereof.

Council may borrow money for its erection.

Term of loan not to exceed ten years.

Clerk to notify commissioner of his election.

SECTION 29. It shall be the duty of the clerk of the city, immediately after the election of any person as commissioner of common schools, personally to notify him of his election; and if any such person shall not, within ten days after receiving such personal notice of his election, take and subscribe the constitutional oath, and file the same with the clerk of the said city, the city council may consider it a refusal to serve and proceed to supply the vacancy occasioned by such refusal.

Eligibility of commissioner.

SECTION 30. No person in the city of Berlin, engaged in teaching any of the schools of said city, shall be eligible to the office of commissioner of common schools in said city, and no member of the board of education shall be employed to teach any of the schools of said city.

Common school fund.

SECTION 31. All moneys on hand when this act takes effect, belonging to the several school districts hereby consolidated, after paying the indebtedness of the respective districts, shall constitute a common fund for the support of the schools in said city, and it is hereby made the duty of the respective treasurers of said school districts to pay over to the city treasurer, on demand, the several sums of money in their possession belonging to said school districts: *provided*, that the taxable property embraced in that school district which shall thus furnish the greatest amount to the common fund, in proportion to the last equalized assessment of the respective districts, shall be entitled to a proportional credit in the first school tax levied in said city under the provisions of this act.

Proviso.

Town of Forsyth

SECTION 32. All of that part of the town of Forsyth, not embraced by this act in the limits of the city of Berlin, shall hereafter constitute and form a part of the town of Berlin.

Acts repealed.

SECTION 33. An act entitled "an act to incorporate the city of Berlin," approved March 6th, 1857; an act entitled "an act to amend an act entitled 'an act to incorporate the city of Berlin,' approved March 6th, 1857," approved February 13th, 1858; [and] an act entitled "an act to create the town of Forsyth, and to amend chapter 330 of the private and local laws of 1857, incorporating the city of Berlin," approved March 30, 1860, are hereby repealed; but the repeal of said acts and parts of acts shall not in any maner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under or by virtue, or in pursuance of the said acts, or any of them, but the same shall exist and be enforced and carried out as fully and effectually to all intents and purposes as if this act had not been passed. And all ordinances, resolutions, regulations, rules, by-laws and orders of the city council of said city, or parts thereof, not repealed, suspended or made void by this act, shall continue

Certain contracts not invalidated.

Ordinances, &c., in force.

CHAPTER 98. and remain of the same force and effect as if this act had not been passed until altered, amended, repealed or suspended by the city council in pursuance of this act.

Public act. SECTION 34. This act shall be considered a public act, and shall be construed favorably in all courts and places, and shall take effect from and after its passage and publication.

Approved March 22, 1861.

CHAPTER 98.

[*Published April* 23, 1861.]

AN ACT to amend and consolidate an act entitled "an at to incorporate the city of Racine, in the county of Racine," approved August 8th, 1848, and the several acts amendatory thereof.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Boundaries. SECTION 1. The limits and boundaries of said city of Racine shall remain as they are now established by law.

Wards. SECTION 2. The number and boundaries of the several wards in said city shall remain as now established, until altered by the city council.

Style, and corporate powers. SECTION 3. The inhabitants within the aforesaid limits shall be and remain a body corporate and politic by the name and style of the "the city of Racine;" and by that name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all courts and places and in all matters whatsoever, with power of purchasing, receiving, holding, occupying and conveying real and personal estate; and shall have a common seal, and may change the same at pleasure; and shall be competent to have and exercise all the rights and privileges, and be subject to all the duties and obligations appertaining to a municipal corporation.

Government—how vested. SECTION 4. The government of said city, and the exercise of its corporate powers, and the management

of its fiscal, prudential and municipal concerns, shall be vested in one mayor and city council, to consist of two aldermen from each ward of said city, and actually residing in the ward for which they are elected; and not less than two-thirds of the aldermen of said city shall constitute a quorum to do business, and shall be denominated the city council; and in such other officers as are hereinafter provided for.

Elective officers.

SECTION 5. The elective officers of said city shall consist of one mayor, one city clerk, who shall also be *ex officio* comptroller, one treasurer, one marshal, three assessors, two justices of the peace, one of whom shall be lected in each year; also, in each ward two aldermen, two school commissioners and one supervisor, who shall be a member of the board of supervisors of Racine county, to be chosen by the qualified electors of each such ward, but the representation of said city in the county board of supervisors shall not exceed five members. The mayor, clerk, treasurer, marshal and supervisors shall hold their offices for one year, and until their successors are elected and qualified; the justices of the peace, aldermen and school commissioners shall hold their offices for two years, and the assessor for three years, except as hereinafter provided. The annual election for elective officers under this act, shall be held on the first Tuesday in April in each year, in the several wards of said city. At the election to be held under this act, on the first Tuesday in April, 1861, there shall be elected one mayor, one clerk, one treasurer, one marshal, one justice of the peace and three assessors; also, in each ward, one supervisor, who shall be a member of the board of supervisors of Racine county, two aldermen and two school commissioners, whose several terms of office shall commence immediately after they are elected and qualified, and thereupon the terms of office of all present incumbents of said offices, (except that of the justice of the peace elected at the last annual city election,) shall cease, and no proclamation or notice of such election shall be required. The assessors, aldermen and school commissioners elected at such election shall be classified by lot under the direction of the city council, so that one of said aldermen and one of said school commissioners for each ward shall hold his office for one year, and the other of said aldermen and school com-

Terms of office.

Annual election—when held, and what officers elected.

Terms of office—when to commence.

Classification.

missioners from such ward shall hold his office for two years, and one of said assessors shall hold his office for one year, one for two years, and the other for three years. And thereafter there shall be elected at each annual city election, in addition to the above mentioned officers whose term of office is one year, but one justice of the peace and one assessor, and in each ward one school commissioner and one alderman.

Officers elected at subsequent elections.

Proclamation of annual elections to be published.

SECTION 6. At least ten days before any election for city or ward officers, except the annual election for 1861, the mayor shall publish his proclamation in two or more papers of the city, to the qualified electors of said city, setting forth the time of such election, the place or places where the same is to be held in the several wards, and the officers to be chosen. The city council shall provide the places for holding all elections for city or ward officers in said city, and said council shall direct the time and manner of canvassing the votes given at any election for city and ward officers: and said city council shall cause an abstract of such votes to be made and recorded in the office of the city clerk, and may make any other arrangements concerning such elections, not inconsistent with the provisions of law. All such elections shall be conducted, and the votes given thereat shall be canvassed and returned to the city clerk of said city in the same manner that general elections are conducted, and the votes canvassed and returned pursuant to chapter 7 of the revised statutes, entitled "of general and special elections, of the manner of conducting the same, and of the canvass." No person shall be entitled to vote at any such election, unless he is at the time a resident of the ward in which he offers his vote, and unless he has all the qualifications of a voter required by said chapter 7 of the revised statutes; and the penalties prescribed in said chapter for [a] violation of [the] provisions thereof, shall apply to all elections held pursuant to this act. The person or persons having the highest number of votes for any office, shall be declared to be duly elected thereto, and in case two or more persons shall have an equal and the highest number of votes for the same office, the city council shall determine by lot which of said persons shall be entitled to said office.

How elections conducted.

Qualification of electors.

Tie votes.

SECTION 7. The mayor shall be the chief executive officer and head of the police of the city. It shall be his duty to recommend in writing to the city council, such measures as he shall deem expedient. He shall sign all commissions, licenses and permits, which may be granted by the city council. He shall maintain peace and good order, and see that the laws of the state and ordinances of the city are observed and executed, and he shall have power to administer oaths or affirmations, and to take and certify acknowledgments of deeds and other instruments in writing.

Mayor to be chief executive officer —his duties.

SECTION 8. The city council shall, on the second Monday after each annual election, elect one of their number as president, to preside at their meetings in the absence of the mayor. When present, the mayor shall preside at the meetings of the city council, and shall only vote therein on [an] equal division of the members present. In case of a vacancy of [in] the office of mayor, or of his being unable, by reason of sickness, or of temporary or continued absence, to perform the duties of his office, the president of the city council shall exercise all the powers and perform all the duties of mayor until that officer shall resume his office, or the vacancy be filled by a new election. In case of the absence or inability of the mayor and president of the council, a president *pro tem.* shall be elected by the city council, and for the time being, shall discharge the duties of mayor.

Election of president.

President *pro tem.*

SECTION 9. The city council shall have power to preserve order and propriety in its proceedings, and to punish, in a summary manner, by fine or imprisonment, or both, all disorderly or disrepectful conduct in its presence, and to compel, by pecuniary penalties, the attendance of its members, to determine the rules of its proceedings, and keep a journal thereof, which shall be open to the inspection of every citizen, at all reasonable times, and prescribe the time and place of holding their meetings, which shall be open at all times to the public. The city council may adopt by-laws for its own government, not inconsistent with the provisions of this act.

Powers of council.

SECTION 10. The mayor or acting mayor, each alderman, the marshal, deputy marshal, watchmen, [and] each justice of the peace, in said city, shall be conservators of the peace, and may command the peace, suppress

Peace officers—may command assistance, &c.

CHAPTER 98. in a summary manner all rioting and disorderly behavior within the limits of said city, and for such purpose may command the assistance of all bystanders, and if need be, of all citizens and military companies of said city; and if any person, bystander, military officer or private of such company, shall refuse to aid in maintaining the peace, when so required, any such person shall forfeit and pay such fine as the city council by ordinance may prescribe. When the civil power of said city may be required to suppress such rioters [riotous] or disorderly conduct, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings, and all other persons shall be bound to obey his lawful orders.

Clerk—his duty. SECTION 11. It shall be the duty of the city clerk to attend the meetings of the city council. He shall be *ex officio* comptroller of the city, and shall perform all such duties as are devolved upon that officer by law. He shall so keep the books of said city that every subject of taxation shall be entered under the proper head, as "state," "county," "schools," "bridges," "harbor," and the like. He shall perform such other duties and exercise such powers as may be lawfully required of him by the ordinances and directions of the city council; and the council shall fix his salary, which shall not exceed five hundred dollars per annum. He shall be the custodian of the seal of said city.

Treasurer—his duty. SECTION 12. The treasurer of said city shall perform such duties and exercise such powers as may be required of him by law, or by the ordinances of said city. All money, of every description, raised by tax, license, penalty, fine, forfeiture or otherwise, for city purposes, shall be paid into the city treasury, and shall not be drawn thence except by a written order of the mayor, or acting mayor, by order of the city council, and countersigned by the city clerk, who shall keep an abstract account thereof. Such order shall specify the fund from whence the money is to be drawn, and the object of the appropriation. He shall keep a just and accurate account of moneys and other things coming into his hands as treasurer, in a book to be kept for that purpose, wherein he shall note the time when, the person from whom, and the amount of the several sums received, and the source from whence the sums respectively arose; which book shall at all reasonable

times be open to the inspection of the public. He shall, when required by the city council, render to it a minute account of his receipts and payments, and shall, at the expiration of his office, hand over to his successor all moneys, books, vouchers and other property in his possession belonging to the city. He shall before entering upon the duties of his office, execute to the city a bond for the faithful discharge of his duties, in such sum and with such sureties as the city council shall direct. He shall keep the moneys require to be raised by the provisions of this act, separately, and shall not apply, on any occasion, one fund to pay the debts of another. He shall collect the state and county tax within said city in the manner now prescribed by law for the collection of taxes by town treasurers. His salary shall be fixed by the city council for collecting city taxes, and shall not exceed the sum of two hundred dollars per annum, and such perquisites as otherwise lawfully appertain to that office. He shall be allowed no fees for collecting city taxes, or paying out city funds.

Shall execute a bond.

His salary and fees.

SECTION 13. The president of the board of education shall be *ex officio* superintendent of schools for said city, and shall discharge all the duties imposed by law upon that officer. He shall receive for his services as such superintendent, a salary to be fixed by the city council, but such salary shall in no case exceed the sum of one hundred and fifty dollars per annum.

President of board of education, his duty, &c.

SECTION 14. All officers elected or appointed under the provisions of this act, shall within ten days after such election or appointment, take and subscribe an oath or affirmation to support the constitution of the United States and of the state of Wisconsin, and to discharge faithfully and impartially the duties of the respective offices to which they are elected or appointed, which oath shall be deposited in the office of the city clerk.

Oath of office.

SECTION 15. The city council shall have power to enact, enforce, alter, modify, amend or repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of fires and for the benefit of trade and commerce, and for the health of the city, as they may deem expedient, declaring and imposing penalties and fines, and to enforce the same against any person who

Powers of council.

CHAPTER 98. may violate such ordinances, rules or by-laws, and the same are hereby declared to be and have the force of law: *provided*, that they be not repugnant to the constitution and laws of the United States, or of the state of Wisconsin; and for those purposes shall have authority by ordinance or by-laws:

Licenses. 1st. To establish rates for, and license and regulate auctioneers, taverns, groceries and victualing houses, and all persons relating [retailing] or dealing in spirituous, vinous or fermented liquors in said city, and the rate for vending such liquors shall in no case be less than twenty-five dollars per annum; and also to license and regulate the exhibitions of showmen of any kind, or the exhibition of any natural or artificial curiosities, or of any caravan, circus or theatrical performance in said city. All money received for such licenses shall be paid into the city treasury, and shall belong to said city, and be applied to the support of the poor who are chargeable upon the city.

Gaming. 2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in said city.

Riots, disorderly houses, &c. 3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, houses of ill-fame, billiard tables, nine or ten pin alleys or tables, shows and exhibitions, and to authorize the destruction of all instruments or devices used for the purpose of gambling.

Cleanse unclean places. 4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler's shop, soap factory, tannery, slaughter house, barn, privy, sewer or other unwholesome or nauseous houses or places, to cleanse, remove or abate the same from time to time, as it may be deemed necessary for the health, comfort and convenience of the inhabitants of the city or vicinity.

Slaughter houses, &c. 5th. To direct the location and management of all slaughter houses and markets, to establish rates for and license venders of gunpowder, and regulate the storage and keeping and conveying of gunpowder and other combustible materials.

Encumbering streets, &c. 6th. To prevent the encumbering of the streets, sidewalks, lanes, alleys or public grounds with carriages, carts, wagons, sleighs, sleds, boxes, lumber, fire-wood or other materials or substances whatever.

7th. To prevent horse racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city. Immoderate driving, bathing, &c.

8th. To restrain the running at large of cattle, swine, sheep, horses, poultry and geese, and to authorize the distraining and sale of the same. Cattle.

9th. To prevent the running at large of dogs, and to authorize their destruction in a summary manner when at large contrary to the ordinances of the city or laws of this state, or to impose a tax on the same. Dogs.

10th. To prevent any person from bringing, depositing or having within said city, any putrid carcass or any unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or any putrid or unsound beef, pork, fish, hides or skins of any kind, and in default to authorize the removal thereof by some competent officer, at the expense of such person or persons. Putrid carcasses, &c.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants of said city or any ward therein; to erect lamps, and regulate and license hacks, cabs, drays, carts and the charges of draymen, hackmen and cabmen within the limits of the city. Pounds, pumps, lamps, hacks, &c.

12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead and the returns of the bills of mortality; and all burial or cemetery grounds, and all grounds set apart for public use in said city are hereby declared to be exempt from taxation. Boards of health &c.

13th. To regulate the procuring of fire buckets and the purchase of fire engines; to prescribe and regulate the materials of which houses may be built within the fire limits, and the manner of erecting and securing chimneys, and to provide for removing chimneys which may be deemed dangerous, and to require and provide for the building of new chimneys when deemed necessary, at the expense of the owners or occupants of buildings when the same may be required; to require the owners of buildings to provide and keep suitable ladders and fire buckets, (which are hereby declared to be exempt from seizere or distress or sale in any man- General powers for protection against fires.

CHAPTER 98.

ner,) and if the owner refuse or neglect to provide suitable ladders or fire buckets, after a reasonable notice, the city council may procure and deliver the same to him, and in default of payment thereof may bring an action against said owner, and be entitled to recover in such action the value of such ladders, fire buckets, or both, with costs of suit; to direct the construction of vaults for the safe deposit of ashes; to appoint fire wardens and prescribe their duties; to regulate the manner of putting up stoves and stove pipes; to compel the owners or occupants of houses or buildings to have scuttles on the roofs of said houses or buildings; and for the purpose of arresting the progress of any fire, the mayor and council, or any three members thereof, may direct any building or buildings to be torn down, removed or blown up with gunpowder; and to establish such other measures of prudence for the prevention or extinguishment of fires as said city council may deem proper.

Fire limits.

14th. To establish fire limits.

Wharves and bridges.

15th. To regulate the building of wharves and bridges, and provide for the protection and security of the same.

Driving on sidewalks.

16th. To prevent all persons riding or driving any horse, ox, mule or cattle, or other animal, on the side walks in said city, or in any way doing any damage to such sidewalks.

Firearms, fireworks, &c.

17th. To prevent the shooting of fire-arms or crackers, except by special permission of the city council, and to prevent the exhibition of any fire-works in every situation which may be considered by the city council dangerous to the city, or any property therein, or annoying to any citizen thereof.

Drunkenness, obscenity, &c.

18th. To restrain drunkards, immoderate drinking, indecent exposure of the person, or obscenity in the streets or public places, and provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Watchmen and firemen.

19th. To regulate the police of the city, to appoint watchmen and firemen, prescribe their duties and punish their delinquencies.

Markets.

20th. To establish public markets, and make rules and regulations for the government of the same, and to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from inter-

rupting or interfering with the due observance of such rules and regulations.

Hay, fuel, &c.

21st. To regulate the place and manner of selling and weighing hay, of measuring and selling of fuel and lime, and appoint suitable persons to superintend and conduct the same.

Remove rubbish, &c.

22d. To compel the owner or occupant of any building or grounds to remove the snow, dirt or rubbish from the sidewalk, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and on default, to authorize the removal or destruction thereof by some suitable officer at the expense of such owner or occupant.

Trees, &c.

23d. To protect trees and monuments in said city.

Support of poor.

24th. To make all necessary rules and regulations for the support of the poor, who are lawfully chargeable upon said city.

Wards.

25th. To alter the boundaries of wards and to increase the number thereof.

No member of council or school board to be interested in city contracts.

SECTION 16. No member of the city council or school board, or other officer of said city, shall be a party to, or interested, directly or indirectly, in any contract or job with the city; and any contract in which any member of the city council, or other officer of the city, may be so interested, notwithstanding this prohibition, shall be null and void, and of no force against said city as a party thereto. And if any member of the city council, or other officer of the corporation, after his election or appointment, or while in office, shall become, or cause himself to become interested, directly or indirectly, in any contract or agreement, written or verbal, to which the corporation or any ward shall be a party in interest, or to which any officer or board under this act shall officially be a party, or in any question, subject or proceedings pending before the city council, or on which such officer may be called on to act officially, with interest to gain, directly or indirectly, any benefit, profit or pecuniary advantage, he shall be removed from his office, and the same shall be declared vacant by the city council, and he shall be deemed guilty of felony, and on conviction thereof shall be punished by imprisonment in the state prison not more than one year, or by fine not more than five thousand dollars, nor less than five hundred, or both, in the discretion of the court.

Penalty.

CHAPTER 98.

Claims— annual receipts and expenditures.

SECTION 17. The city council shall settle all claims and demands against the city, settle with the treasurer annually, and make out and publish in two or more papers, accounts of the receipts and expenditures of said city, at the close of each fiscal year for such year, for the information of the citizens.

Officers council may appoint or remove.

SECTION 18. The city council shall have power to appoint, and at pleasure to remove, the following officers, viz: one harbor master, whose salary for discharging all of the duties of that office shall be fixed by the city council, but shall not exceed the sum of two hundred dollars per annum, and whose duties shall include the tending of bridges; one city attorney, whose salary shall not exceed one hundred dollars per annum; one fire warden for each ward; one superintendent of the poor for the city, whose salary for discharging all of the duties of that office shall not exceed one hundred and fifty dollars in any one year; one sealer of weights and measures; one or more surveyors, and so many measurers of fuel, grain, lime and other marketable articles, weighers of hay, pound masters, sexton and keepers of the burial grounds, and inspectors of lumber, as the city council may, from time to time deem expedient, and prescribe their duties and compensation, and to impose and enforce in law such penalties as to the said city council may seem proper, for any malfeasance or improper conduct of any of said officers; and to require bonds for the faithful performance of the duties of such of them as may be deemed expedient and necessary by said city council. No such fire warden, sealer of weights and measures, measurer of fuel, grain, lime or other article, weigher of hay, surveyor, pound master, sexton or keeper of any burial ground, shall receive from the city any compensation for his services, unless such services were required by the city council for the use of the city, but he shall be paid therefor in all other cases by the person requiring such services, or by such other person as shall be liable therefor by law or under the ordinances of said city.

Failure to hold election not a loss of franchise.

SECTION 19. If any election provided for in this act shall, for any cause, not be held at the time prescribed, it shall not be considered a sufficient reason for arresting, suspending or dissolving the said corporation, but such election may be held at any time thereafter by order of the city council, of which time ten

days' public notice shall be given; and further, if any of the duties enjoined by this act, at a time herein specified, or specified by any ordinances of said city, are not then done, the city council may appoint another time upon which the said duties may be done: *provided*, that the officer so failing to execute such duties at the time required, shall be liable to the same actions, fines and penalties as he would be liable to if the said council had not the power to appoint another time.

Vacancies—how filled.

SECTION 20. Whenever the office of mayor or alderman shall become vacant, by reason of the death, resignation, removal, refusal or neglect to qualify, or from any cause whatever, the same may be filled by special election, to be held at such time as may be designated by the mayor, or acting mayor, and city council; and the person or persons so elected, shall fill the vacancy during the remainder of the term for which his predecessor was elected.

Council may impose fines on officers.

SECTION 21. In all cases not in this act provided for, officers appointed or elected shall be liable to such fines, penalties or forfeitures for negligence, carelessness, misconduct in office, and positive violations of duty, as the city council shall by ordinance order and determine.

Fire companies.

SECTION 22. The city council shall have power to authorize the formation of fire engine, hook, ladder, hose and sack companies; provide for the due and proper regulation of the same, and to disband any such companies at any time, and prohibit their meeting as such, when disbanded, which companies shall be officered and governed by their own by-laws: *provided*, such by-laws be not inconsistent with the laws of this state, or with the ordinances and regulations of the city, and shall be formed only by voluntary enlistment. Every active member of each company in said city, shall be exempt from serving on juries, and from poll work and military duty, except in case of war, invasion or insurrection; and whenever an active member of a fire, hook and ladder and hose company, shall have actually served therein seven years, he shall be entitled to a discharge signed by the mayor, and shall thereafter be exempt as aforesaid; but no members of such companies shall be entitled to the exemptions provided in this section, unless they shall have performed all of the duties as such members, as prescribed by the

Exemption of members.

CHAPTER 98. ordinances of the city, and shall produce a certificate of the foreman of their company to that effect.

Proceedings against vessels, &c.

SECTION 23. The city council may institute and maintain actions in the name of the city, under chapter 151 of the general laws of 1859, entitled "an act relating to proceedings for the collection of demands against ships, boats and vessels, and to repeal chapter 150 of the revised statutes," approved March 17th, 1859, against any ship, boat or vessel, for any and all causes of actions arising or accruing to said city under said law.

Laying out public grounds, streets, &c.—petition of free-holders.

SECTION 24. The city council shall have power to lay out, widen, enlarge and open public grounds, squares, streets and alleys, in the manner following: whenever ten or more free-holders, resident in any ward, shall petition the city council to lay out a street, alley, or public ground or square in such ward, and shall specify in said petition, with reasonable certainty, the metes and bounds of the lands necessary to be taken for the purposes mentioned in such petition, and the names and residences of the owners of such lands, as far as the same can be ascertained, and shall accompany said petition with a plat of said proposed street, alley, public grounds or square, the city council may, (if it appear to such council that the public good will be promoted by granting such petition,) by resolution direct the city attorney, or such other person as may be designated in said resolution, to apply to the judge of Racine county court, and in case the judge shall be interested in the land proposed to be taken for such improvements, or in case of his absence or disability to act, then to the judge of the circuit court or to a court commissioner for said county, for the appointment of a jury, to ascertain the necessity for such proposed improvement, and for taking therefor the lands described in such petition. Such resolution shall also direct the time and place where such application will be made, and shall be published in the official paper of said city for three weeks, at least once in each week, before such application shall be made.

Application for jury.

SECTION 25. Upon presentation of such application and proof of due publication of such resolution, at the time and place appointed therein for that purpose, the said judge or commissioner, as the case may be, shall appoint twelve reputable and disinterested freeholders,

residents of said city, but not of the ward wherein the lands proposed to be taken by such improvements are situated, who shall be a jury to ascertain and establish the necessity of such improvement, and for taking therefor the lands specified in such petition. The said judge or commissioner shall thereupon issue his precept, directed to the marshal of said city, or his deputy, requiring him to summon said jurors to meet at a time and place to be specified in said precept, (to be not more than ten days from the date thereof,) to view the lands so proposed to be taken, and to decide upon the necessity of such proposed improvement, and for taking such lands therefor, and to make due return of their verdict to the city council within ten days from the time so appointed for such meeting. Said precept shall be served by the marshal or his deputy on each of said jurors, by reading the same to him at least two days before the time appointed for such meeting.

Meeting of jury.

SECTION 26. In case any of said jurors shall fail to attend at the time and place appointed in said precept, the judge or commissioner may, upon verbal application made by the marshal or his deputy, appoint other jurors, who are duly qualified as hereinbefore specified, in place of those so failing to attend, which appointment shall be annexed to, or inclosed [indorsed] upon such precept. When such jurors are all present, they shall be sworn by said judge or commissioner, or some other person authorized to administer oaths, faithfully and honestly to discharge the duties required of them by such precept; and the officer administering said oath shall certify the fact, which certificate shall be indorsed upon or annexed to such precept.

How vacancies may be filled.

SECTION 27. After the jury are sworn, they shall proceed to examine the lands proposed to be taken, and to inquire into the necessity for the proposed improvement, and for taking said lands therefor, and shall return their verdict in writing, signed by each juror, to the marshal or his deputy, who shall immediately deliver the same, together with said precept and all the papers relating to such proceeding, to the city clerk, to be filed in his office; and such proceedings shall be laid before the next meeting of the council by said clerk.

Jury to view lands and return a written verdict.

SECTION 28. If the verdict of the jury shall be that the proposed improvement is necessary, and that it is necessary to take therefor the lands specified in the

If deemed necessary, council may lay out, &c.

CHAPTER 98.

petition, or any part thereof, then the city council may proceed to lay out, widen or enlarge such street, alley, public grounds or square, (as the case may be,) and open the same, and cause the damages and benefits to be assessed, collected and paid, in the manner prescribed by this act.

Per diem.

SECTION 29. The county judge or commissioner shall receive one dollar, the marshal or his deputy two dollars, for each case, and each juror one dollar per day, for all services rendered by them respectively, on each proceeding relating to laying out, widening or enlarging streets, alleys or public grounds or squares under this act.

Special commissioners to assess damages, &c.—their duties.

SECTION 30. The assessment of all benefits and damages which may hereafter arise or accrue in laying out, opening or widening the streets in the city, shall be made by three special commissioners, who shall be appointed by the city council. Such commissioners shall be residents of the city, but not of the ward in which such damages and benefits are to be assessed. It shall be their duty to assess all such benefits and damages upon the particular lots which will be benfited or injured thereby, and make a report, in detail, of their proceedings, to the city council; which report, immediately upon the making thereof, shall be filed in the office of the city clerk, and the city council shall thereupon approve or reject the same; and if such report be rejected by the city council, they shall forthwith order a new assessment to be made by other commissioners, and when such new assessment shall be ordered, the commissioners shall proceed as in the first instance, and make their report to the city council; and when such report shall be approved by the city council, the assessment of benefits shall be a lien, from the time of approving such report, upon the several lots, parts of lots or parcels of lands, upon which they are assessed, and the collection thereof shall be enforced in the same manner as other taxes. The said commissioners, not less than ten days before they shall proceed to the discharge of their duties, as provided in this section, shall cause notice to be given to all persons interested, of the time when, and the place where, they will meet for the purpose of determining and awarding the amount of damages and benefits as aforesaid, by publishing such notice in a newspaper

Notice to persons interested.

printed in said city: *provided, however,* any person whose property is taken, or against whom an assessment is made, may, within ten days from the approval of such report by the said city council, appeal from said assessment of damages or benefits to the circuit court for Racine county, by filing a notice of such appeal with the city clerk, where such appeal shall be tried by the court and jury as in ordinary cases. The city council shall have the same right of appeal. Appeal.

SECTION 31. The city council may cause any street in said city to be graded, paved, [or] McAdamized, and such sidewalks as they shall determine, to be constructed or repaired, in such manner as they shall determine; and shall direct the cost of such improvements abutting upon each lot, part of lot or parcel of land, to be ascertained, which cost shall be a charge and lien upon said lot, part of lot or parcel of land, and shall be collected as prescribed in the next section. The city council shall by ordinance, prescribe the manner of making such improvements and ascertaining the cost thereof, and the amount of such cost properly chargeable to each such lot, part of lot or parcel of land; but no such improvements shall be made, unless upon petition of the owners of a majority of the lineal frontage of the lots or their legal representatives, to be assessed, where such improvement is proposed to be made. Street improvements—how costs taxable. Petition.

SECTION 32. Whenever any improvement not chargeable to the city, shall have been completed, and the proportion of the costs thereof properly chargeable to each lot, part of lot or parcel of land, shall have been ascertained, the mayor and city clerk shall issue to the person or persons entitled thereto, a separate certificate for the amount assessed and chargeable to each particular lot, part of lot or parcel of land, which shall be a lien and charge thereon, and upon no other property, from the time it was issued, and shall be collected as a special tax upon such lots, and the collection thereof enforced in the same manner as other taxes. City scrip may be (*be*) issued for such expenditures, payable only from the fund arising from such special tax, which scrip shall only be received in payment of the special tax for which it was issued. If such taxes shall be collected by the city treasurer, the amount collected shall be paid over to the holder or holders of such certificates, and they shall be held by the city as a special fund; nor How tax to be collected.

CHAPTER 98.

shall the city be liable for, nor pay the same in any other manner than as herein specified.

Survey and platting of streets, &c.

SECTION 33. The said city council may cause the public streets, lanes, alleys, highways and public grounds in said city, to be surveyed, described and permanently marked on a plat thereof, to be recorded by the clerk in a book to be kept by him for that purpose, in which book shall also be recorded a plat of any new street, lane or alley which may hereafter be established by the city council under the provisions of this act, and any change or alteration that may be made therein; and such survey and record shall be *prima facie* evidence of the position and limits of such street, lane, alley, public ground or highway.

Street commissioners—compensation, duties, &c.

SECTION 34. The city council shall appoint one street commissioner for each ward of said city, whose compensation shall not exceed one dollar each per day, nor shall be allowed more than thirty days each to perform labor upon the streets, unless upon some extraordinary occasion of accidents or damage to the streets, in which case the said city council may order the same to be repaired, but the compensation shall not exceed the above rate. Each of said street commissioners shall give a bond to the city in the sum of five hundred dollars, with sureties to be approved by the city council, conditioned for the proper disbursement of all money which he may receive as such commissioner, and for the faithful performance of all his official duties; and he shall from time to time, when required by the city council, make return on oath to the city council of the amount of work done and of money received and expended by him as such commissioner, and the manner in which the same has been expended; and also of any other matter connected with his official duties which the city council may require.

Highway and poll taxes—how collected.

SECTION 35. The general laws of the state in relation to the assessment and collection of poll taxes for highway purposes in towns, shall extend to and be in force in said city of Racine. Each ward shall constitute a ward district, and the street commissioner shall possess all the powers, perform all the duties and be subject to all the liabilities of overseers of highways in towns, except as herein provided. The lists of persons liable to pay a poll tax in each ward, shall be delivered by the respective street commissioners to the

city clerk, within the time in which overseers of highways are required by law to deliver such lists to town clerks; and immediately thereafter the city clerk shall make [a] duplicate of each such list, adding thereto the amount of tax each such person is liable to pay, and shall annex thereto his warrant for the collection of such taxes, substantially in the form of warrants for the collection of highway taxes required by law to be issued by supervisors of towns to overseers of highways, and shall deliver such duplicate list and warrant to the street commissioner of the proper ward for collection. The clerk shall file the original lists received from the street commissioners in his office.

Tax for salaries of officers, &c.

SECTION 36. The city council of said city, in addition to the powers and duties imposed upon them, shall levy an annual tax upon all the taxable property in said city, sufficient to pay the salaries of the officers of said city, as in this act provided, and to cover the appropriations hereinafter named:

For schools.

1st. For school purposes, including repairs of school houses and all incidental school expenses, a sum not exceeding four thousand dollars in the year 1861, the sum of five thousand dollars in the year 1862, the sum of six thousand dollars in the year 1863, and annually thereafter a sum not exceeding six thousand dollars. The amount of moneys received from the state school fund, tuition, from tax certificates belonging to the city school fund, as well as all school moneys received from all other sources, shall be added to the amount of said annual school tax: *provided*, that the city council shall not in any one year expend a sum exceeding nine thousand dollars for school purposes.

Limit.

For piers.

2d. A sum not exceeding five hundred dollars to be appropriated to repairing the harbor piers, all of which sum so raised shall be expended on that portion of said piers lying east of the line of private property; but the city council may, in its discretion, use one-half of the sum so appropriated, in dredging the harbor east of such line.

For bridges.

3d. A sum not exceeding three hundred dollars per annum, for the repairs of bridges in said city.

For fire department.

4th. A sum not exceeding five hundred dollars per annum, for the support of the fire department. Out of this sum, a salary of fifty dollars per annum may be

CHAPTER 98.

allowed to [the] chief engineer, and twenty-five dollars each to [the] 1st and 2d assistant engineers. And,

Contingent fund.

5th. A sum not exceeding fifteen hundred dollars per annum, to be set apart as a contingent fund. No part of the contingent fund shall be used for dredging the harbor.

Prohibition.

SECTION 37. The board of supervisors of Racine county shall not levy any tax for school purposes in said city.

City only liable for amount of taxes authorized

SECTION 38. In no case shall the city be liable for any script [scrip] or other evidence of debt issued, or upon any appropriation made, or upon any agreement or contract entered into by any board or officer of said city, or by the city council, beyond the sums which the said city council is by this act authorized to levy upon the taxable property in said city.

Assessors—their duties.

SECTION 39. The assessors shall assess all taxable property in said city, and shall make out the annual assessment roll for said city, in accordance with the general laws of this state relating to the assessment of property and the duties of assessors; and said assessment roll shall be equalized and notice thereof given by the said assessors at the time and in the manner required by law; and the notice of the meeting of the board of equalization shall, in addition to the posting thereof required by law, be published in two newspapers published in said city for one week previous to such meeting. Immediately after such assessment roll is equalized, the same shall be verified by the oath of each of said assessors, as required by law, and the said assessment roll, or a copy thereof, shall be deposited in the office of the city clerk.

When council shall levy tax to meet appropriations.

SECTION 40. The city council shall, on or before the first Monday in August, levy upon the whole amount of the assessment thus corrected and equalized, a per cent. sufficient to raise the amount of the several appropriations authorized by this act; and it shall be the duty of the clerk, under the direction of the city council, in accordance with such determination, to make a schedule of all the property, as contained in said assessment roll, annexing to each lot, part of lot or other item of property, in separate columns, the amount of tax which shall be chargeable thereon, on account of each of the funds hereinafter mentioned; which schedule shall be called the tax list, and shall be

recorded by the city clerk in a book to be kept for that purpose; and said tax list, or an authenticated copy of the record thereof, shall be conclusive evidence of the amount of taxes assessed for the current year in which the same shall be made out; and the city clerk shall deliver said tax list to the city treasurer on or before the first day of September annually, and make a record of such delivery in a book where such list shall be recorded, from which day the taxes shall become a lien upon real estate in preference to any other lien, until the same shall be satisfied, with all costs and charges which may accrue thereon according to law.

Tax list to be conclusive evidence, &c.

When to be delivered to treasurer.

SECTION 41. Upon receipt of the tax lists as aforesaid, it shall be the duty of the treasurer of said city, who shall be the collector for all the wards, to give public notice in two newspapers printed in said city, that such tax lists have been committed to him for the purpose of collecting the taxes thereon, and that he will receive payment of taxes at his office in said city until the last day of December then next ensuing; and said notice shall also state the time and place when and where he will sell all lots and lands in said lists contained, upon which the taxes remain unpaid at such time, or so much thereof as will pay and satisfy all taxes which may be assessed thereon, together with all costs and liabilities which shall accrue according to law, by advertisement and sale; and such notice shall be published six successive weeks in two newspapers in said city, between the last day of September and the last day of December in the year of said notice.

Treasurer to publish notice, &c.

SECTION 42. In case the taxes on any real estate in said tax list contained, shall remain unpaid after the last day of December next ensuing the publication of said notice, the treasurer shall, on the second Monday of January next ensuing, commence the sale of said real estate, and continue the same from day to day until so much thereof shall be sold as will pay the taxes, interest and charges due, assessed and charged thereon, agreeable to this act; and the treasurer shall give to the purchaser or purchasers of any such real estate, a certificate describing the particular lots or land by him or them purchased, stating the sum paid therefor and the time when the purchaser will be entitled to a deed for the same lots or lands; and if the person claiming the title to said lots or land shall not, within two years

When sale of lands for unpaid taxes to commence.

Treasurer's certificate.

CHAPTER 98.

from the date thereof, pay to the treasurer for the use of the purchaser, his heirs or assigns, the sum mentioned in said certificate, together with the interest thereon, at the rate of twenty-five per cent. per annum from the date of such certificate, then it shall be the duty of the treasurer of the city, for the time being, after the expiration of said two years, to execute to the purchaser, his heirs or assigns, on presentation of such certificate, a conveyance by deed of the lots or land so sold, which conveyance shall vest in the person to whom it shall be given an absolute estate in fee simple; and the said conveyance shall be *prima facie* evidence that the sale, and all the proceedings in levying the taxes, advertising the same and making such sale, were regular according to the provisions of this act; and every such conveyance shall be executed by the treasurer, under his hand and the seal of the city, and in the name and behalf of the city of Racine, and may be given in evidence and recorded, in the same manner and with like effect as a deed regularly acknowledged by the grantor may be given in evidence and recorded: *provided*, that in cases of assessments of taxes in gross upon any lot or piece of land, the treasurer, upon the application of any claimant or owner of a part thereof, either divided or undivided, shall receive the taxes on such part, either in payment or redemption, with the interest and charges thereon, proportionate to the quantity of such lot or tract so claimed or owned, and the remainder of such taxes, interest and charges shall be a lien only on the remainder of such lot or piece of land. In case there shall be no bid for any parcels of land equal to the amount of the delinquent taxes thereon and costs, it shall be the duty of the city clerk to bid off such real estate for the use of the city, and the tax certificate issued upon sale shall be transferable by the indorsement of said clerk, when directed by the city council.

Tax deed.

Proviso.

When lots may be bid off for use of the city.

Collection of taxes on personal property.

SECTION 43. In case any person shall neglect to pay the taxes assessed to his personal property, after the publication of the notice herein mentioned, the treasurer shall proceed to levy the same by distress and sale of the goods and chattels of the person who ought to pay the same. The treasurer shall give public notice of the time and place of the sale, with a description of the property to be sold, at least ten days previ-

ous, by advertisement in some newspaper, or to be posted up in three public places in the city of Racine, and the sale shall be by public auction. If the property distrained shall be sold for more than the amount of the tax and legal charges thereon, the surplus shall be returned to the owner of such property.

Ibid—warrant may issue, &c., or suit brought in any other county.

SECTION 44. Whenever taxes on personal property shall have been, or shall hereafter be included in any assessment roll in said city, and shall have remained, or shall hereafter remain unpaid, in whole or in part, until the first day of February next after the same shall have been levied, the city treasurer may, at any time within three years thereafter, issue a warrant under his hand, directed to the sheriff of Racine county, commanding him to levy the amount of such unpaid taxes, and interest and costs, together with his fees for collecting the same, of the goods and chattels, lands and tenements of the person to whom such taxes were assessed, and to pay the same to the city treasurer, and return such warrant within sixty days from the date thereof, or said treasurer may, at any time within said three years, sue for and recover such unpaid taxes in an action to be brought in the name of the city of Racine against such person, in any county where he may be found, and the assessment roll and city treasurer's warrant, and certificate of non-payment of said tax, or abstract therefrom, certified by the city treasurer under the seal of said city, shall be *prima facie* evidence of such tax being unpaid, and of the amount which should be recovered in such action.

Publication of list of unredeemed lands—fees, &c.

SECTION 45. Six months previous to the time limited by this act for redeeming lots or lands sold for taxes, it shall be the duty of the treasurer of said city to publish at least six weeks successively in some newspaper or newspapers printed in said city, a list of all unredeemed lots or lands, describing each lot or piece of land, or any part thereof, as the same was assessed and sold, together with a notice to all interested therein, of the time when the same will become forfeited; and the city council shall fix and determine the amount which shall be paid for printing such advertisements, and for other expenses consequent thereon, which shall not exceed ten cents for each lot or parcel of land, and shall be paid by the person redeeming the same, or taking a conveyance thereof, as the case may be.

CHAPTER 98.

Fees of treasurer

SECTION 46. It shall be lawful for the treasurer of said city to demand and receive the following fees and perquisites, viz: for each certificate of sale to be given to a purchaser, at any tax sale of any lot or piece of land, or part thereof, ten cents; for each certificate of redemption of any lot or piece of land, or part thereof, for a single piece of land, ten cents, and five cents for every additional lot or piece of land described in such certificate, to be paid by the person redeeming the same.

Certain officers to receive no fees —fees of others.

SECTION 47. Neither the mayor, acting mayor, or any member of the city council or school board, except the president of the school board, shall receive any pay from the city for any services rendered officially during their [his] term of office; and no person shall be eligible to more than one office in any department of said city government, except city clerk and the president of the board of education, as herein provided. Each assessor shall receive fifty dollars per annum for his services. The clerk of the board of education shall receive fifty dollars per annum for his services.

Vacancies.

SECTION 48. In case of vacancy in any city office, except mayor or aldermen, the city council may fill such vacancy by appointment, and the appointee shall hold his office until the next annual election.

Notice *prima facie* evidence, &c.

SECTION 49. Any newspaper published in said city, purporting to contain the publication of any by-law or ordinance of said city, shall be *prima facie* evidence of such publication at the date of said paper.

Controller—his duties.

SECTION 50. It shall be the duty of the city controller to make out and report to the city council, at its first regular meeting in the month of April in each year, a statement in detail of all expenses of the city, and the condition of the funds and revenue of the city for the preceding year. The fiscal year shall commence on the first day of April annually. He shall also prepare a list of all outstanding city bonds, and a statement of the purpose for which they were issued, when and where and to whom payable, and rate of interest they respectively bear. He shall make, or cause to be made, estimates of the expenses of any work to be done by the city, and shall examine all estimates of work made by the street commissioners of the several wards, and countersign all contracts entered into by the city, and unless they be so countersigned,

they shall have no validity; and no money shall be drawn from the city treasury for work done on any contract before it was countersigned by him. He shall in no case countersign contracts for the expenditure of money by the city until the means for paying the same shall have been provided for by the city council; and for a violation of his duty in this respect, he and his bail shall be liable for all damages resulting to the city or any individual. Duplicate receipts shall be given by the treasurer for all moneys received into the treasury, one of which shall be deposited with the controller, and the other countersigned by him. He shall keep a full account of all the separate funds of the city, and the several amounts received to the credit of the same respectively, and the amounts severally paid from the same. He shall countersign no draft upon the treasury, unless the particular fund upon which it is drawn shall then be good for that amount upon the books of the treasurer. Every draft upon the treasurer shall specify the particular fund upon which it is drawn. Before any bill or account shall be allowed by the city council, it shall be audited by the controller, who shall keep full accounts of the bill so audited, and an account of all receipts into the treasury and all disbursements therefrom, and of all contracts countersigned by him, and of claims for damages against the city. He shall keep a record of all his acts and doings, which record shall be open for inspection of all parties interested. He shall report to the city council at their first regular meeting in each month, the amount of all contracts which have been entered into chargeable to the general city fund, and perform such other duties as the city council by ordinance or resolution may direct.

Further duties of controller.

SECTION 51. If, on or before the first day of December of any year, the amount expended, or to be expended, chargeable to any city fund, shall be equal to three-fourths of the tax authorized to be raised for such fund, the city controller shall at once report the same to the city council, and he shall not thereafter countersign any contracts chargeable to such fund until the amount of taxes actually collected be ascertained, and during the remainder of the fiscal year he shall not countersign any contract, the expense of which will exceed the revenues actually collected for the funds to which such expense is properly chargeable.

CHAPTER 98.

Treasurer—his duties.

SECTION 52. The city treasurer shall, on the Saturday preceding each regular meeting of the city council, report to the city controller the amount of money paid into the treasury since the making of his last report, the names of the persons from whom the same was received, the date of the receipt thereof, and the fund upon the account of which the same was paid. The city controller shall have a right at all times to examine all of the records, books, papers, vouchers and accounts of the city treasurer, and it shall be his duty from time to time to compare his report therewith. If the city treasurer shall, in the opinion of the city council, willfully neglect to make such report as is required by this section, or shall willfully make a false report, or shall refuse the city controller access, at reasonable times, to the records, books, papers, vouchers and accounts in his office, the city council may declare his office vacant, and appoint a city treasurer in his place, who shall hold his office for the remainder of the term of the treasurer so removed.

Funds.

SECTION 53. All moneys raised or received for school purposes, shall constitute a separate fund, denominated the "school fund." All moneys raised or received for the support of the poor, shall constitute a separate fund, to be denominated the "poor fund." All moneys raised or received for the repairs of bridges, docks and piers, and for dredging the harbor, or for any other improvement authorized by this act to be made at the expense of the city, shall each constitute a separate fund, and shall not be used for any other purposes. All moneys raised not herein appropriated to some other fund, shall constitute a separate fund, to be denominated the "contingent fund."

Ibid.

SECTION 54. All receipts into the treasury shall, as received, belong to the said several funds in proportion to the several amounts for each fund, and no moneys raised or received on account of any special fund shall be appropriated to any other purpose than that for which they were raised, and the controller shall keep separate accounts of the receipts and disbursements of each fund. When interest shall be paid upon the redemption of lands sold for taxes, such interest shall belong to the several funds on account of which such taxes were levied, in proportion to the amount of such taxes.

No interest on scrip.

SECTION 55. Interest shall not be allowed upon any scrip issued by the city, and all warrants or scrip drawn in payment of any indebteness shall correspond in amount with the amount allowed by the city council for which it was issued.

Council may dock Root river and clear said river and certain of its tributaries of obstructions.

SECTION 56. The city council are hereby authorized, by ordinance, to make, designate and establish dock lines on Root river, within the boundaries of said city, conforming as near as practicable to the original meander and survey thereof, wherever said river is not already docked, and to protect the banks of any and all creeks and streams of water emptying into said river, so as to prevent the washing away of said banks, and to prevent sand and other obstructions from washing into said river; and for the purpose of carrying into effect the foregoing provisions of this section, the city council shall have power to provide by ordinance for docking the banks of said river, and for filling the lots abutting thereon, and protecting the banks of all creeks, gutters and steams of water emptying into said river within the bounds of the city, and to require the several owners of lots, or any portion thereof, abutting on said river, or any creek or stream of water, to dock and fill the same in such manner and within such time as said council shall direct, and to make such other protection on any lot or lots within said boundaries, to prevent obstructions from working into said river, as to said city council may seem meet and proper; and if the owner or owners of such lot or lots shall refuse within the time specified by said council, to build such docks or other protections, or otherwise comply with the provisions of such ordinances, the city council are hereby authorized and empowered to let the docking and filling of such lots, or other specified protection for such lots, by contract to the lowest bidder for the same, and when it shall be completed according to such contract, and accepted by the council, the mayor and city clerk shall issue a certificate to such contractor, as provided in section 57 of this act, for the contract price of work, which certificate shall from that time be a lien upon said lot or lots, the same as other special assessments, and shall be collected in the same manner as the taxes assessed on real estate are collected. But no part of the expense of any such work shall be paid by the city.

CHAPTER 98.

Spicial tax.

SECTION 57. The city clerk shall, on the first day of December annually, add to the tax roll of the city, in a separate column, as a special assessment opposite to the lots to be charged therewith, all outstanding certificates issued by him and the mayor for special improvements as provided in this act, and the same shall be collected by the treasurer as other taxes upon real estate are collected.

Dock and harbor.

SECTION 58. It shall be the duty of the city council to provide for keeping the docks at the foot of streets in repair, and to remove such obstructions from the harbor opposite to such streets, to the extent of fifty feet from said docks, as interferes with the free navigation of the harbor; but the expense of removing such obstsuctions last above mentioned, shall not exceed fifty dollars per annum.

Appropriations—duplicate lists.

SECTION 59. Duplicate lists of all appropriations hereafter made by the city council, shall be delivered by the city clerk to the mayor, within two days after the allowance of the same, who shall approve or disapprove the same within three days after such delivery, and return one to the city clerk with his approval or disapproval indorsed thereon, and (*to*) file the other in his office. If he shall approve such appropriation, a warrant for the amount shall be drawn upon the treasurer in favor of the person entitled thereto; if he disapproves the same, no warrant shall be drawn therefor, unless the same shall be allowed by a vote of two-thirds of all the members composing the city council; and no ordinance or legislative resolution passed by the city council shall be of any validity unless approved by the mayor within three days after the passage thereof, unless in case of his disapproval, indorsed upon such ordinance or resolution, the city council shall again pass the same by two-thirds, as above provided, at the next regular meeting of the city council; and all appropriations of money made by the city council shall be on call of the yeas and nays by the clerk, which shall be entered upon the journal; and a majority of all the members of the city council shall be necessary to an appropriation of money.

Special police.

SECTION 60. In cases of emergency, the mayor may appoint a special police, and the city council shall provide by ordinance for such appointment, and the duties to be performed by such police in preserving the peace and good order of the city.

Summary arrests by marshal.

SECTION 61. It shall be the duty of the marshal and all deputy marshals of the city of Racine, and they are hereby authorized and required, to summarily arrest and take before any justice of the peace of said city, any person who shall be found within the corporate limits of said city in a state of intoxication, or who shall be guilty of any boisterous revelry or obscenity, or any breach of the peace by making any improper noise or disturbance, or indecent exposure of his person, or by firing guns, or fighting, or threatening to fight, or in any other manner shall be engaged in violating any ordinance of said city made for the preservation of the peace and good order thereof; and said justice shall have power to hear, try and determine all such offenses; and any person convicted of any offense specified in this act, where no other punishment is specified by law, or by any ordinance of said city, shall be punished by fine of not less than three dollars nor more than fifty dollars, or by imprisonment in the county jail or city lock-up not less than three days nor more than fifty days, in the discretion of the justice; and in all cases the justice shall impose the payment of the costs of prosecution upon the person so convicted, as a part of the punishment; and in default of payment of any such fine or costs, the justice shall commit the defendant to such county jail or lock-up for such number of days, not exceeding thirty nor less less than five, as he may think proper. But in case any person shall be committed for non-payment of any such fine or costs, he shall be discharged upon payment of the same, together with the costs and expenses of his imprisonment, to the sheriff or other officer having charge of such jail or lock-up.

Power of justice.

Fine.

Defendant may be committed.

Officers may arrest without process.

SECTION 62. Any officer making any arrest under the provisions of this act, may, if necessary, commit the person arrested to such jail or lock-up without process, and such person shall be delivered up to such officer by the keeper of such jail or lock-up on demand and without process: *provided*, that if such officer does not demand the person so committed within twenty-four hours (Sunday excepted) after such committal, the officer having charge of such prison shall discharge the person so arrested from confinement.

Proviso.

CHAPTER 98.

Fines to go to city.

SECTION 63. All fines collected in pursuance of this act, shall be paid into the city treasury by the person receiving the same, immediately after the receipt thereof.

SECTION 64. The following, or equivalent forms, may be used in proceedings under this act, or in proceedings for any violation of the charter or any ordinance of said city:

FORM OF COMPLAINT.

STATE OF WISCONSIN, }
Racine county, city of Racine, } ss.

Form of complaint.

A. B. being duly sworn and examined, makes complaint and says, that in said city, on the —— day of ——— ———, A. D. eighteen hundred and ———, one C. D. was guilty of (here state the nature of the offense,) in violation of law, and prays that the said C. D. may be apprehended to answer therefor. A. B.

Subscribed to before me this —— day of ———, 186–.

———— ————
justice of the peace.

Warrant may issue.

Upon such complaint being filed with the justice, he may issue a warrant for the apprehension of the party complained of, which warrant may be in the following form: *provided, always*, that in any case where an offender may have been arrested without warrant, the said justice may proceed upon the complaint alone:

Form of warrant

FORM OF WARRANT.

STATE OF WISCONSIN, }
Racine county, city of Racine, } ss.

To the marshal of the city of Racine, or his deputy:

Whereas, A. B. has this day complained to me in writing, on oath, that in the said city, on the —— day of ———, A. D. eighteen hundred and ——, one C. D. was guilty of (here state the nature of the offense:) Now, therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the said C. D. and bring him before the undersigned, one of the justices of the peace of said county, to answer to the said complaint, and to be dealt with according to law.

Given under my hand this —— day of ———, A. D. eighteen hundred and ——. E. F.,
justice of the peace.

Application of laws.

SECTION 65. All of the general provisions of law concerning the trial of criminal offenses, the fees of officers and proceedings, in which, upon trial, the justice finds he has not final jurisdiction of the case, shall govern trials under this act, unless otherwise provided in this act: *provided*, that in all convictions under this act, where a punishment for the offense is prescribed in the general statutes of this state, or in any ordinances of said city, the penalty as prescribed by such statutes or ordinances shall be imposed upon the person so convicted.

Penalty for violation of ordinances, &c.

SECTION 66. In all cases in which, by the provisions of this act, the city council have power to pass ordinances or by-laws, they may prescribe any penalty for the violation thereof, not exceeding fifty dollars for any one offense; and may also provide that in default of payment of any judgment rendered for such violation or omission, the defendant may be imprisoned not exceeding forty days in the lock-up of said city.

Fees of present officers.

SECTION 67. All of the present officers of said city shall hold their offices until the first election shall be held under this act, and until their successors elected at such election shall be qualified. They shall perform all of their respective duties under the provisions of this act, until their successors are so elected and qualified; and all of the existing ordinances of said city, not inconsistent with the provisions of this act, are hereby declared to be in full force until altered or repealed by the city council; and a printed copy of an ordinance published in a newspaper or pamphlet, by authority of the city council, shall be *prima facie* evidence of the passage and publication of such ordinance.

Ordinances in force.

Executions—what to contain.

SECTION 68. Executions issued upon judgment obtained for violation or non-observance of ordinances or by-laws of the city, may contain a clause directing the imprisonment of the defendant for such time as shall have been provided by the ordinance under which the judgment shall be rendered, in case of the non-payment thereof by the defendant; and all fines, penalties and forfeitures, when collected, shall be paid into the city treasury for the use of the city.

Ordinances, &c., to be published.

SECTION 69. Ordinances, regulations, rules or by-laws imposing any penalty or forfeiture for the violation of its provisions, shall be published one week in

Proof of publication.

some newspaper printed in said city, before the same shall be in force; and proof of such publication, by the affidavit of the printer or foreman in the office of such paper, when the publication was made, shall be conclusive evidence of such publication and promulgation of such ordinance, regulation, rule or by-law.

Poor fund.

SECTION 70. All moneys received or collected in said city, under and by virtue of chapter one hundred and seventy-five of the general laws of 1860, entitled "an act to regulate and license the keeping of dogs," shall be paid into the city treasury, and belong to the "poor fund."

Repeal.

SECTION 71. The act entitled "an act to incorporate the city of Racine, in the county of Racine," approved August 8, 1848, and all acts and parts of acts amendatory thereto, except so far as they relate to the limits and boundaries of said city, are hereby repealed. The ninth section of the act entitled "an act in relation to the public schools in the city of Racine," approved April 14, 1852, and the act amendatory of the said ninth section of the last named act, approved March 7, 1857, are hereby repealed; and all other acts and parts of acts contravening the provisions of this act, are hereby repealed.

Take effect.

SECTION 72. This act shall take effect and be in force from and after its passage and publication.

Approved March 22, 1861.

CHAPTER 102.

[*Published April* 22, 1861.]

AN ACT to amend an act entitled "an act to amend an act entitled an act to incorporate the city of Beloit," approved March 3d, 1857.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

When annual election to be held.

SECTION 1. Section one of chapter two of the act to which this act is an amendment, is hereby so amended that the same shall read as follows: "The annual election for ward and city officers shall be held on the first Tuesday of April of each year, at such place in

each ward as the common council shall designate, and the polls shall be kept open from nine o'clock in the forenoon till five o'clock in the afternoon, and ten days' previous notice shall be given by the common council of the time and place of holding such elections, and of the city and ward officers to be elected. The elective officers of said city shall be a mayor and treasurer and superintendent of schools, and for each ward one justice of the peace, three aldermen and one constable. All other officers necessary for the proper management of the affairs of said city, shall be appointed by the common council. All elective officers, except justices of the peace, shall, unless otherwise provided, hold their respective offices for one year and until their successors are elected and qualified. Justices of the peace shall hold their offices for two years and until their successors are elected and qualified: *provided, however*, the common council shall have power, for due cause, to expel any of their own members, and to remove from office any officer or agent under the city government, except justices of the peace, by a vote of two-thirds of all the members of such body, due notice being first given to the officers complained of."

Notice.

Elective officers.

Appointed officers.

Terms of office.

Removals.

SECTION 2. Section eleven of chapter two of said act is hereby amended so that the same shall read as follows: "At every annual election there shall be elected in each ward one alderman, who shall hold his office for one year, and one alderman who shall hold his office for two years. There shall be written or printed, or partly written and partly printed, on the ballot over the name of the person to be voted for for alderman for one year, the words 'alderman for one year;' and there shall be written or printed, or partly written and partly printed, on the ballot over the name of the person voted for for alderman for two years, the words 'alderman for two years.' The alderman in each ward, elected for two years, shall be, in the order of their election, members of the county board of supervisors, with all the rights, duties and liabilities of the chairmen of the boards of supervisors of the several towns: *provided*, that the alderman for two years may substitute either of the other aldermen of his ward in his place in said county board for such time as may be named by him in writing."

Election of aldermen—terms of office.

Aldermen elected for two years to be members of county board.

CHAPTER 102.

How costs for street improvements, &c., assessable.

SECTION 3. Section two of chapter six of said act is hereby amended by striking out the words "and also the mode of ascertaining what lands or premises will be benefited by such taking," in the sixth, seventh and eighth lines of said section, and by inserting instead thereof the following: "The costs and expenses of any such improvement shall be levied upon the taxable property of the city in the next assessment roll, and shall be collected with other city taxes;" also, by striking out the words, "or benefits," wherever the same occur in said section.

Appeal.

SECTION 4. Section three of chapter six is hereby amended so that the same shall read as follows: "Any person being dissatisfied with the amount of compensation for property taken, shall have the right to appeal to the circuit court within twenty days from the time of awarding of compensation, by giving a bond to the city in not less than one hundred dollars, to be approved by the mayor, acting mayor or city clerk, to pay all costs of appeal, in case the appellant shall not on such appeal increase the amount of such compensation. The common council may appeal in behalf of the city by giving notice to the opposite party, without giving bond.

Issue of certificates to contractors—what to contain.

SECTION 5. Section nine of chapter seven of said act is hereby amended so as to read as follows: "After the completion and performance of any contract entered into by the street commissioners for work chargeable to lots or lands, by virtue of this act, the amount due the contractor shall be paid by the city, and the street commissioners shall file with the city clerk a certificate under their hand, stating therein the amount of work done by the contractor, the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable; and if the amount thereof chargeable to any lot or parcel of land shall not be paid before the time of making out the annual assessment roll, the city clerk shall assess the amount upon the said lots or parcels of land respectively, and such amount shall be collected for the benefit and use of the holder of said certificate, as other taxes on real estate are collected by virtue of this act; and if the notice to do the work prescribed shall have been given as herein provided, no informality or error in the proceedings shall vitiate such assessment. The said certificate may

be transferred by the city by indorsement made thereon by the mayor and clerk; and in case the amount due on any such certificate is paid at any time before the land or lot therein described is deeded by the county, pursuant to any sale for the non-payment of such taxes, the sum so paid shall be forthwith paid over to [by] the officer receiving the same to the city treaserer, for the benefit of the holder of such certificate." May be transferred.

SECTION 6. All acts or parts of acts contravening either the letter or spirit of this act, are hereby repealed. Repeal.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved March 22, 1861.

CHAPTER 106.

[*Published March* 25, 1861.]

AN ACT to amend section 1 and to repeal section 3 of chapter 170 of the private and local laws of 1860, entitled "an act to amend chapter 193 of the private and local laws of 1859, entitled 'an act to incorporate the village of Oconto.'"

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 1 of chapter 170 of the private and local laws of 1860, entitled "an act to amend chapter 193 of the private and local laws of 1859, entitled 'an act to incorporate the village of Oconto,'" is hereby amended by striking out all after [of] said section after the word "west" in the tenth line. Repeal.

SECTION 2. Section 3 of said chapter is hereby repealed. Repeal.

SECTION 3. All acts and parts of acts which conflict with or contravene the provisions of this act, are hereby repealed. Repeal.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved March 22, 1861.

CHAPTER 115.

[*Published March* 30, 1861.]

AN ACT to incorporate the village of Shullsburg.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Boundaries.

SECTION 1. All that district of country inclosed [included] in the following description, lying and being in the town of Shullsburg, county of La Fayette and state of Wisconsin, to wit: the west half of section eleven (11) and the east half of section ten, (10,) in township number one, (1,) north of range number two (2) east, shall hereafter be known and designated as the "village of Shullsburg," and the inhabitants now residing or who may hereafter reside within the limits of said district of country herein described, are hereby constituted a body corporate and politic, by the name and style of the "president and trustees of the village of Shullsburg," and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the power herein specially granted, and the authorities thereof shall have perpetual succession; shall have the power of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all courts and places, in all matters whatsoever, with the power of purchasing, receiving, holding, occupying and conveying real and personal estate, and shall have a common seal, and may change and alter the same at pleasure.

Style.

Corporate powers.

How powers vested.

SECTION 2. The government of said corporation and the exercise of its corporate powers and management of its fiscal, prudential and municipal concerns, shall be vested in a president and four trustees, and such other officers as are hereinafter provided for.

First election—officers elected.

SECTION 3. It shall be lawful for the inhabitants of said village, qualified to vote at any general election, to meet at the court house in said village on the last Tuesday of March, A. D. 1861, at ten o'clock A. M., and choose, *viva voce*, three judges of election and one clerk, who, together, shall form an election board, and then and there said inhabitants shall elect by ballot a president, (who shall be *ex-officio* a trustee,) four trus-

tees, one assessor, a clerk, one treasurer and one marshal: *provided*, that in case the officers aforesaid shall not be elected on that day, they may be at any time thereafter, on a call signed by twelve electors of said village, and ten days' notice thereof being given by said electors, by posting up three notices of the time and place of said election in said village. Proviso.

SECTION 4. On the last Tuesday of March in each year thereafter, there shall be an annual election of the officers of said village, and the trustees shall give at least ten days' notice of the time and place of holding the same, and they, or any three, shall be inspectors of such election. All officers shall be elected by ballot, as the law provides for the election of officers of the towns. Annual election, and notice thereof.

SECTION 5. No person shall be eligible to any of said offices, unless he shall be a voter in said village. Any person qualified to vote at any general election, shall be a legal voter at any election of officers for said village. Eligibility and qualification.

SECTION 6. At any election under this act, the polls shall be open at 10 o'clock A. M. and continue open until five o'clock P. M. of said day, and a plurality of votes shall in all cases decide the election. How elections conducted.

SECTION 7. All of said officers shall hold their offices until the —— of —— next after their election and until their successors are elected and qualified in their stead, respectively. The president shall preside at all meetings of the trustees, keep the seal of said corporation, sign all commissions, licenses and permits which may be granted by the trustees. He shall maintain peace and good order, and see that the ordinances of the village are observed and executed. He shall have power to administer oaths and affirmations; as a judicial officer, he shall have concurrent jurisdiction with the justices of the peace of the county of La Fayette, for the violation of any ordinance of said village, and when presiding at a meeting of the trustees, he shall have a casting vote, but no other, when the vote of the members is a tie. Terms of office. Duty of president. His jurisdiction as justice.

SECTION 8. The president and trustees shall prescribe the time and fix the place of holding their meetings, which shall, at all times, be open to the public, and shall determine the rules of the proceedings, and keep a journal thereof, which shall be open for the in- Place of meeting, journal of proceedings, by-laws, &c.

CHAPTER 115.

burial of the dead; to provide for the protection and security of bridges; to prevent all persons riding or driving any horse or mule, cattle or other animal on the sidewalks, or in any way doing damage to such sidewalks; to restrain drunkards, immoderate drinking, obscenity in the streets of said village, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same; to regulate and license the sale of intoxicating liquors, and to prescribe the amount to be paid for such license in conformity to the laws on that subject; to license and regulate billiard tables, bowling saloons, groceries, taverns and victualing houses, and to restrain the keeping [of] the same without a license; to protect trees and monuments of said village; to fill any vacancy that may occur in the office of trustee, assessor, clerk, treasurer or marshal; to appoint and remove at pleasure, any of the following officers, to-wit: one chief engineer of the fire department, two fire wardens, one surveyor, one sealer of weights and measures, sextons and keepers of burial grounds, one street commissioner, one pound keeper, and to prescribe their duties and fix their compensations, and to impose and enforce such penalties for any malfeasance or improper conduct in their respective offices, as the trustees may deem proper, and to require such officers to give bonds for the faithful performance of their duty; to order the survey and to establish the grade of all streets in said village, and to prescribe the breadth, grade and material of all side and cross walks; to compel the owners and occupants of buildings or grounds to remove snow, dirt or other rubbish from the sidewalks, streets or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in case of his default, to authorize the removal or destruction thereof by some officer of the village, at the expense of such owner or occupant; to build, keep, grade, pave or otherwise improve streets, highways, lanes, alleys, sidewalks, crosswalks, culverts, bridges and sewers, within said village; to require any building, fence or other erection which may be placed within, or erected upon the boundary. The trustees shall have power to lay out, alter, widen, contract, straighten or extend streets, alleys, lanes highways and walks within said village, and to discon-

Bridges.

Sidewalks.

Drunkards.

Licenses.

Billiards, &c.

Trees.

Vacancies.

Appoint, &c.

Grade.

Snow, dirt, &c.

Improve streets, &c.

inue the same, when in their opinion the same are no onger necessary, making such disposition of the land o vacated as to them shall seem proper; to direct the prosecution and defense of suits in which said village may be a party; to procure the necessary blank books for records, and such stationery as may be required for village purposes; to audit and allow all lawful accounts against said village, and to draw an order on the treasury for the payment of the same; to levy and collect on all such property as shall be subject to town and county taxes: *provided*, that the taxes for corporation purposes shall not exceed five mills on the dollar on the assessed valuation of the taxable property of said village, unless two-thirds of the electors of said village, voting at a meeting regularly called for that purpose, shall vote to allow a larger sum to be raised, but in no case shall the electors be allowed to raise more than two per cent. on the assessed valuation aforesaid.

Suits.

Books, &c.

Accounts.

Limit to tax.

SECTION 10. In all cases in relation to which, by the provisions of this act, the president and trustees have power to enact or pass ordinances or by-laws in relation to any subject, they may prescribe any penalty for the violation of such ordinances or by-law, not exceeding fifty dollars for any one offense, in violation of or non-observance thereof, and may also provide that in default of payment the offenders may be imprisoned for such term as they may by such ordinance direct, not exceeding thirty days, for which purpose the said village shall have the use of the jail of said LaFayette county for the imprisonment of any person liable to be imprisoned; and all persons committed to jail by an officer of said village, shall be under the charge of the sheriff of said county.

Penalty for violation of ordinances, &c.

SECTION 11. On all suits for the violation of any ordinance of the village, the process may be by warrant, and it shall be sufficient, without setting forth the special matter, to declare generally in debt, with reference to the ordinance under which the action is brought. The defendant may plead the general issue, and give the special matter in evidence, and a printed copy of any ordinance, published in a newspaper or pamphlet, by authority of the trustees, shall be *prima facie* evidence of the passage and publication of such ordinance.

Actions to be commenced by warrant, &c.

CHAPTER 115.

Executions—defendants may be imprisoned.

SECTION 12. Every execution issuing upon judgment for the violation or non-observance of any ordinance or by-law of said village, shall contain a clause directing, in the event of non-payment of the judgment, the imprisonment of the defendant in the county jail, for such term as shall have been provided for by the ordinance under which the judgment shall have been rendered. All fines, forfeitures and penalties when collected, shall be paid into the treasury of said village.

Publication of ordinances, &c.—proof of publication.

SECTION 13. Any ordinance, regulation, rule or by-law imposing any penalty or forfeiture for the violation of its provisions, shall be published three weeks in some newspaper printed in said village, or by posting notices in three conspicuous places in said village, before the same shall be in force; and proof of such publication, if under affidavit of the printer or foreman in the office of such newspaper when such publication may have been made, or in case there is no publication, then by the affidavit of some competent person posting such notice, shall be conclusive evidence of the publication or promulgation of such ordinance, rule or by-law in all courts and places.

Marshal—his powers and duties.

SECTION 14. The marshal shall possess all the powers and enjoy all the rights of a constable of the town of Shullsburg, and be subject to the same liabilities. It shall be his duty to execute all writs and processes to him directed, and when necessary, in criminal cases, or for the violation of any ordinance of said village, he may serve the same in any part of the state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend all disorderly persons in said village, and pursue and arrest any person fleeing from justice, to apprehend any person in the act of committing any offense against the state or the ordinances of the village, and to bring such person before competent authority for examination, and for such services he shall receive like fees as are allowed to constables for like services.

Treasurer—his duties.

SECTION 15. The treasurer of said village shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said village. All moneys raised, received, recovered and collected by means of any tax, license, fine, forfeiture or otherwise, under the authority of this act, or which belongs to said village, shall be kept by him, and shall

not be drawn therefrom except by a written order signed by the president and countersigned by the clerk, by order of the trustees. Such order shall specify the amount of money to be drawn, and for what. He shall keep a just and accurate account of all moneys and other things coming into his hands as treasurer, in a book to be provided for that purpose. He shall as often as the trustees require, render to said trustees a minute account of his receipts and payments, and at the expiration of his term of office he shall pay over to his successor all moneys, books and vouchers in his possession belonging to said village. He shall, before he enters upon the duties of his office, execute to the president and trustees a bond for the faithful discharge of his duties, to be approved by the trustees, which bond shall be at least double the amount of taxes to be received for the year in which he is elected. The compensation for his services shall be fixed by the trustees, and shall not exceed the sum allowed by law for like services.

Bond.

Compensation.

SECTION 16. The clerk shall keep the records of said village and perform such duties as may be lawfully required of him by the ordinances or by the direction of the trustees, who shall fix his compensation therefor.

Clerk—his duties.

SECTION 17. Every officer elected in said village shall, within ten days after he shall be notified of his election, take and subscribe the oath of office prescribed by the constitution, and file the same with the clerk, and in case of his omission to do so, he shall be deemed to have refused to serve, and his place shall be filled in the manner prescribed by this act.

Oath of office.

SECTION 18. Special meetings may be called by the clerk of said village, by order of the trustees thereof, by giving six days' notice thereof in writing, posted up at three of the most public places in said village. Every notice of such meeting shall state the objects for which such meeting is called.

Special meetings

SECTION 19. No account or claim against said village shall be paid until it shall have been presented to the trustees thereof, and audited and allowed by them. No such account shall be audited or allowed by the trustees until it shall be made out in items, and shall be accompanied by an affidavit of the person claiming to have done the services or made the disbursements therein charged, that the several items of the account

Accounts against the village.

CHAPTER 115. or claim are correct, and the services therein charged have been rendered, and that the disbursements therein charged have been made, and that no part thereof has been paid. Such affidavit shall be indorsed on or annexed to such account or claim, and presented therewith.

Ibid. SECTION 20. Nothing in the last preceding section shall be construed to prevent the trustees from disallowing any account or claim, in whole or in part, when so made out and verified, nor from requiring other and further evidence of the correctness and reasonableness thereof.

Village shall not borrow money, &c., nor debts exceed tax. SECTION 21. Said village shall have no power to borrow money, nor shall it be liable to pay money borrowed on its account or advanced in its behalf by its officers or any other person, nor shall any of its money or property be applied to any such purposes, nor shall the village incur any debt or liability in any year, greater than the amount of tax allowed by this act to be raised in said village in the year in which such debt or liability was incurred, unless two-thirds of the legal voters of said village shall vote in favor of such act.

Grading streets, &c. SECTION 22. Whenever two-thirds of all the resident owners of real estate bounding both sides of any street or part of street, not less than ten rods in length, in said village, shall desire to have such street graded, paved or otherwise improved, they may make an application in writing to the trustees of said village, specifying in such application the sum necessary to be raised for that purpose, which shall not exceed five per cent. of the assessed valuation; and if all the said trustees shall deem said improvement necessary, they shall levy and cause to be collected, such sum by tax on the owners of real estate, on lots on such street or part of street. Said tax shall be levied on the last assessment valuation of the real estate and lots, as the same shall appear in the assessment roll of said village.

Building sidewalks. SECTION 23. Whenever the owners of two-thirds of the lots or parts of lots belonging to residents of said village, bounding one side of any street or part of street, shall desire to have a sidewalk built or repaired, the application shall be made as in the last section, and the trustees shall direct the same to be done by giving notice the same as in the last section, but all such work shall be subject to the approval of the trustees.

Collection of taxes for village improvements.

SECTION 24. Whenever the trustees shall levy any tax for the purpose of grading, paving or otherwise improving any street, or for building or repairing any sidewalk, they shall make out and deliver to the street commissioner a list of persons and a description of the property taxed, with the amount of tax to be collected and expended; and thereupon the street commissioner shall notify the persons named in said tax list, by publishing a notice in three or more public places in said village, or in some newspaper printed therein, and shall specify in such notice a time, not less than ten nor more than twenty days from the date thereof, when the persons charged with tax in such list may pay their taxes in labor, materials or money; and the persons charged with such tax may at any time and place as may be required by said street commissioner, pay their taxes in labor or materials: *provided*, the labor and materials offered in payment for such taxes are suitable, and such as may be required by said street commissioner.

When list to be returned.

SECTION 25. At the expiration of sixty days from the time the street commissioner shall have received such tax list, he shall return the same to the trustees, accompanied by a statement verified by his affidavit, showing the amount of tax collected, the amount paid in money or materials, and the manner in which such money was expended, and the items of expenditure; also, the taxes which remain unpaid, and the persons and descriptions of real estate and lots to which such unpaid taxes stand charged.

Unpaid taxes—how collectable.

SECTION 26. The trustees in making out the duplicate assessment roll of said village next thereafter, shall enter such unpaid taxes therein in a separate column, with ten per cent. interest added thereto, opposite to the names of the persons and descriptions of property against which the taxes so remain unpaid; and such taxes shall be collected in the same manner as the general taxes of said village are collected, and when so collected shall be paid over to a street commissioner, on the order of the trustees, to be expended on the street or sidewalk for which they were originally assessed.

General tax to be determined.

SECTION 27. The trustees shall in the month of May of each year, determine the amount of general tax necessary to be assessed and collected in said village

CHAPTER 115. the current year, which amount shall be levied and collected in the same manner as town taxes are levied and collected.

Assessment roll. SECTION 28. The assessment roll of said village shall be made by the assessor at the time and in the manner required by law for making out the assessment rolls of towns, and the compensation of the assessor shall be fixed by the trustees. Said assesmenet roll shall be equalized and corrected by the president, assessor and clerk, at the time and in the manner provided by law for the equalization and correction of the assessments of towns.

Levy of tax. SECTION 29. When such assessment roll shall be finally completed, the trustees shall cause to be levied such amount of tax as shall have been determined to have been raised, and shall set opposite to each description and valuation of taxable property, the amount of tax charged upon such property, and to each person respectively; and when such tax list shall have been so completed, they shall forthwith cause a true copy thereof to be made, and a warrant annexed thereto, and deliver such tax list and warrant to the marshal of said village, as hereinafter provided, and the original assessment roll and tax list shall be deposited with the treasurer of said village.

Warrant—how signed, &c. SECTION 30. The warrant annexed to any tax list delivered to the marshal, as aforesaid, shall be signed by the president and countersigned by the clerk of said village, or, in the absence of the president, such warrant shall be signed by a majority of the trustees. The warrant shall command the marshal to collect the taxes mentioned in [within] forty days, and pay over the same to the treasurer of said village and make return of said warrant to said treasurer. The trustees may renew the warrant annexed to any tax list for thirty days, when they shall deem it necessary, but any such warrant shall not be renewed more than once.

Marshal to give notice. SECTION 31. Upon the receipt of the tax list aforesaid, it shall be the duty of the marshal to give public notice by publishing the same in three public places in said village, that such tax list has been committed to him for collection, and that he will receive payment for taxes at his office for the term of twenty days next ensuing such notice, and all taxes paid during said twenty days shall be subject to a deduction of three per cent. upon the amount paid.

SECTION 32. If the taxes are not paid to the marshal within the said term, he may then proceed to collect the same by distress and sale of the goods and chattels of the person charged, giving six days' notice of the time and place of such sale, by written notices set up in three public places in said village. May collect by distress.

SECTION 33. It shall be the duty of the marshal, within the time prescribed in any such warrant for the return thereof, to pay over all sums collected by him to the treasurer of said village, and to return such warrant to the said treasurer, with his return thereon written, subscribed by him, and specifying any such sum or sums of money not collected by him by reason of his not being able to find property in said village out of which he could collect the same; and if any sum be returned not collected by him, his return shall be accompanied by his affidavit that the facts therein stated are true. Return of warrant, &c.

SECTION 34. In case the tax on any lot or parcel of land shall remain unpaid on the first of October, it shall be the duty of the treasurer to make out a general advertisement, stating that all lots or other pieces of land upon which taxes have not been paid, will be sold by him at a certain time and place therein mentioned, for the purpose of paying the taxes assessed thereon, together with all costs and other liabilities which may accrue by advertising and selling, agreeably to the provisions of this act. Said advertisement shall be published in a newspaper published in said village, if there be one, or by written notices set up in three of the most conspicuous places in the village, for at least twenty days before the day of such sale. Notice of sale of lands for unpaid taxes.

SECTION 35. On the day and at the time and place mentioned in the notice, the treasurer shall commence the sale of lands and lots, and continue the same from day to day until so much thereof shall be sold as will pay the taxes, interest, charges due, assessed and charged thereon, agreeably to this act; and the treasurer shall give to the purchasers of any lot or lots of lands a certificate of the lots or land purchased, stating the sum paid therefor, including fees, and the time the purchaser will be entitled to a deed. Sale of lands for unpaid taxes.

SECTION 36. Said treasurer shall, immediately after the close of such sale of lots or lands for taxes, deposit in the office of the clerk of said village all affida- Statement of lands sold.

CHAPTER 115.

vits, notices and papers in relation to such tax sale, to be filed in the office of said clerk; also, a statement containing a particular description of each lot or parcel of land sold, to whom sold, the amount for which the same was sold, and the name of the owner, if known. And the said treasurer and clerk shall record such statement in a book kept for that purpose, by each of them, in their respective offices.

Redemption of lands sold, tax deeds, &c.

SECTION 37. If the person claiming the title to the lots or parcels of land so sold and described in said certificate given by the treasurer, shall not, within two years from the date thereof, pay to the treasurer for the use of the purchaser, his heirs or assigns, the sum mentioned in said certificate, together with interest thereon at twenty-five per cent. per annum from the date of such certificate, the treasurer shall, at the expirption of said two years, execute to the purchaser, his heirs or assigns, a conveyance of the lots or parcels of land so sold, which conveyance shall vest in the person or persons to whom the same shall be given, an absolute estate in fee simple, and the same conveyance shall be evidence that the same was regular, according to the provisions of this act; and any such conveyance executed by the treasurer under his hand and the seal of the corporation, in the name and in behalf of the said village, and execution thereof witnessed and acknowledged, as by law in other cases provided, may be given in evidence and recorded in the same manner and with like effect as a deed regularly acknowledged by the grantee [grantor] may be given in evidence and recorded:

Proviso.

provided, that in case of assessment of taxes in gross upon any lot or parcel of land, the treasurer, upon the application of any claimant or owner of a part thereof, either divided or undivided, shall receive the taxes on such part, either in payment or redemption, with the interest and charges thereon, proportionate to the quantity of such lot or tract so claimed or owned, and the remainder of such taxes, interest or charges, shall be a lien only on the remainder of such lot or piece of land.

List of unredeemed lands to be published, fees for advertising, &c.

SECTION 38. In all cases, before lands shall be conveyed as aforesaid, the treasurer shall advertise the same by a correct description thereof, for three months, in some newspaper published in the county of LaFayette, stating that all such lots or parcels of land will be forfeited if the taxes, interest and charges upon the same are not paid before the day mentioned in such notice.

SECTION 39. All lots or lands which shall be advertised for sale, for non-payment of taxes, shall be subject to a charge of ten cents for each lot or parcel of land so advertised, for the first advertisement, and such piece of land which shall be sold as aforesaid, shall be chargeable with the following fees: for each certificate to be given to a purchaser of any lot at such sale, twelve and a half cents; for certifying the amount necessary to redeem any lot or piece of land, twelve and a half cents; and one dollar for each conveyance executed in pursuance of this act: the said fees to be paid by the person receiving such instrument. The charge for advertising the forfeiture of a piece of land, shall be fifteen cents for each lot or parcel.

Highway tax—limit.

SECTION 40. The trustees shall levy a highway tax in each year, of an amount not exceeding three mills on the assessed valuation of the property in said village, which shall be levied and collected in the same manner that highway taxes are levied and collected in the towns, to be expended on the streets of said village, to be expended by the street commissioner under the direction of the trustees.

Poll tax—how expended.

SECTION 41. The trustees shall tax each male person who, by the laws of this state is subject to perform highway work or labor, one day's labor in each year, to be expended on the streets of said village; but any such person may at his option pay one dollar for such tax, which money and labor shall be expended by the street commissioner, under the direction of the trustees; and in default of the payment of such money or labor, the street commissioner may sue and collect such money, with the costs of suit, in the name of the "president and trustees of the village of Shullsburg."

Annual statement of accounts allowed, and condition of treasury.

SECTION 42. The trustees shall within ten days next preceding every annual election, cause to be published in three public places in said village, by posting up written notices, a statement which shall show the name of every person who shall have had an account or claim allowed, (*by*,) the amount of such account or claim as represented, the amount allowed, and a brief statement of the nature of the demand. It shall also give a statement of the condition of the treasury. The first statement so published shall embrace all the accounts allowed from the incorporation of the village to the time of publishing the same, and each subsequent statement

CHAPTER 115. shall embrace all accounts allowed to the time of publishing from the publication of the last preceding statement.

Claims to be numbered.

SECTION 43. Every account or claim against said village, presented to the trustees in any year, shall be numbered from number one and upwards, in the order in which it shall be presented, and a memorandum of the time of presenting the same, the name of the person in whose favor it shall be made out, and of the person by whom it shall be presented, shall be entered in the records of the proceedings of the trustees.

Orders—what to show, how signed, &c.

SECTION 44. Every order drawn by the trustees to pay any account or claim, shall refer to such account by its number, the name of the person in whose favor it was made out, and the time when it was presented, and shall be signed by the president and countersigned by the clerk, and a memorandum of such reference and of the amount of the order, shall be entered in such records before such order shall be delivered to the claimants.

Competency of judge, &c.

SECTION 45. No person shall be an incompetent judge, justice, witness or juror, by reason of his being an inhabitant of said village, in an action or proceeding in which said village is a party, or interested.

Quorum.

SECTION 46. A majority of the trustees shall form a quorum for the transaction of business, but a less number may meet and adjourn from time to time, until a quorum shall be present, but shall do no other business; and in the absence of the president, three trustees being present, one of their number may be appointed chairman *pro tem.*

No member of board to be interested in contract.

SECTION 47. The president and trustees of said village shall not receive any pay or emoluments for any services by them performed for said village, or for the discharge of any of their official duties; and they shall not be directly or indirectly interested in any contract made with, or work done for, said corporation: *provided*, that the provisions of this section shall not extend to the judicial acts of the president, authorized by him to be performed in section seven of this act.

Appropriations.

SECTION 48. No money shall be appropriated for any purposes whatever, except such as are expressly authorized by this act.

Actions to recover penalties.

SECTION 49. All actions brought to recover any penalty or forfeiture under this act, or the ordinances,

by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the village. It shall be lawful to declare generally in debt, for such penalty or forfeiture, stating the clause of the charter or by-laws or ordinance under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Organization of town of Shullsburg not affected.

SECTION 50. The incorporation of the village of Shullsburg, and its organization, shall in no manner affect the organization, government or boundaries of the present town of Shullsburg, which shall continue its existence as a town, with all its present rights and privileges, save and except those relating to streets, sidewalks and roads within said corporation. The taxes levied in the village of Shullsburg, by the trustees of said village, shall be for village purposes only, and the electors of the village of Shullsburg shall not, in consequence of the organization of said village, lose any rights as electors of said town.

Village taxes.

Public act.

SECTION 51. This act shall be considered a public act, and shall take effect and be in force from and after its passage and publication.

Approved March 25, 1861.

CHAPTER 118.

[*Published March* 25, 1861.]

AN ACT to detach certain lands from the city of Sheboygan and annex the same to the town of Sheboygan, in the county of Sheboygan.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Description of lands detached, &c.

SECTION 1. The north half of sections fourteen and fifteen, and the west half of sections twenty-two and twenty-seven, all in township number fifteen, north of range number twenty-three east, and now lying within the corporate limits of the city of Sheboygan, are hereby detached from said city of Sheboygan; and the said several tracts of land are hereby annexed to the town of Sheboygan, in the county of Sheboygan, and the said lands shall hereafter form and constitute a part of the town of Sheboygan, for all purposes whatsoever.

CHAPTER 126.

Title of city to "poor farm" not affected.

SECTION 2. The provisions of this act shall not in any manner affect the right, title or interest of the city of Sheboygan in and to certain tracts of land situate in the west half of said section twenty-two and the north half of said section fifteen, (*and*) which are now owned and occupied by the city of Sheboygan as a "poor farm," on which to support and maintain the poor of said city, nor shall said lands now owned and occupied by said city for the purposes aforesaid, be subject to taxation in said town of Sheboygan, for any purposes whatsoever.

Repeal.

SECTION 3. So much of an act entitled "an act to incorporate the city of Sheboygan," and of any of the acts amendatory thereof, as conflict with the provisions of this act, are hereby repealed.

SECTION 4. This act shall be immediately published, and shall take effect and be in force from and after its publication.

Approved March 26, 1861.

CHAPTER 126.

[*Published April* 1, 1861.]

AN act to amend chapter 5 of the private and local laws of 1857, entitled "an act to incorporate the city of Prescott."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Sec. 3 amended.

SECTION 1. Section 3 of chapter 5 of the private and local laws of 1857, is hereby amended by adding after the word "them" in the eighth line of said section, as follows: "on a day to be stated in said pre-

Sec. 4 amended.

cept." And section 4 of said chapter is also hereby amended by adding to said section the following words:

Oath.

"And the jurors, before entering upon the discharge of their duties, shall severally take an oath before some competent officer, that they are freeholders of said city, and not interested in the premises to be viewed, and that they will faithfully and impartially discharge the

Sec. 5 amended.

trust reposed in them." And that section 5 of the same chapter be likewise amended by striking out the

following words: "at such times as they may agree upon," in the first and second lines in said section. CHAPTER 130.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 28, 1861.

CHAPTER 130.

[*Published, April* 1, 1861.]

AN ACT to lay out and establish a state road from Ahnepee, in Kewaunee county, to the city of Green Bay, in Brown county, and provide for improving the same.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Commissioners, and their duties.

SECTION 1. Geo. W. Elliott, Fred. S. Ellis, Edward Decker, John Axtell and Michael Arnedt are hereby appointed commissioners to lay out and establish a state road from the village of Ahnepee, in Kewaunee county, to the city of Green Bay, in Brown county. It shall be the duty of said commissioners at the time of laying out said road, to award to the owners of lands through which the same is laid, such damages as they shall deem just, which damages shall be paid by the several towns in which such lands are situated.

Shall take an oath and execute a bond.

SECTION 2. Before entering upon the duties required by this act, the said commissioners shall take and subscribe an oath to perform such duties faithfully and impartially, and shall execute to the people of the counties of Brown and Kewaunee, a bond in the penal sum of two thousand dollars, with such surety or sureties as the county judge and county treasurer of Kewaunee county shall approve, conditioned for the faithful and just expenditure of all moneys that may come into their hands by virtue of this act, and for the faithful performance of all their duties under this act, and shall file said bond and oath of office with the county treasurer of Kewaunee county. Said county judge and county treasurer are hereby authorized to prosecute the said bond whenever the condition thereof shall be broken, and shall have power to require said commis-

Bond may be prosecuted.

CHAPTER 130.

sioners to account to them as often as they shall deem necessary, and also to fill all vacancies which may from any cause occur in said board of commissioners.

Clerk and treasurer.

SECTION 3. Said commissioners shall appoint a clerk, who shall act as treasurer under the provisions of this act.

Lands within one and a half miles each side of road to be assessed.

SECTION 4. On or before the fifteenth day of August, A. D. 1861, the clerk appointed under this act shall make out an assessment roll containing a description of all the tracts or lots of land lying along the line of said road, of which one-half of each such tract or lot shall lay within one and one-half miles of said road, which in the opinion of said commissioners will be particularly benefited by the improvement of said road; and on completion of said roll, said commissioners shall meet on such day in the month of July or August, A. D. 1861, and at such place as they may agree upon, for the purpose of laying an assessment on such tracts or lots of land; and they shall assess them at their true cash value, setting down opposite each tract or lot of land described in said roll, the valuation as appraised.

Amount of tax.

SECTION 5. Said commissioners shall lay such tax on all the tracts or lots of land aforesaid, as in their opinion may be necessary to improve the said road and render the same passable as a good wagon road, not to exceed five cents on the dollar. The said clerk shall then calculate and carry out such tax opposite each tract or lot therein described.

Tax to be collected by clerk.

SECTION 6. On or before the eighteenth day of September, A. D. 1861, the clerk appointed under this act shall proceed to collect the taxes in said roll, in the same manner and with like powers as town treasurers are authorized by law to collect county and town taxes.

May be worked out.

SECTION 7. Any person charged with taxes in said roll, may work out the same at one dollar per day, under the direction of said commissioners, or either of them, or by furnishing materials at such prices as may be agreed upon.

How unpaid taxes shall be collected.

SECTION 8. In the event of any part of the tax remaining unpaid on any of the property described in said roll, it shall be the duty of the clerk, or one of said commissioners, on or before the fifteenth day of November, A. D. 1861, to make out a list of such delinquent tracts or lots of land, and return the same to the town clerks respectively of the several towns through

which the road runs; and it shall be and is hereby made the duty of said town clerks to enter such unpaid taxes in their respective tax lists, for the year 1861, opposite the proper description of said tracts of lots of land; and such unpaid taxes shall then be collected by the town treasurers of said towns respectively, in money, at the time and in the manner of collecting county, state and other taxes. It shall be the duty of such treasurers to pay over all such moneys collected by them to the clerk appointed under this act, on demand, taking proper vouchers therefor. In case any part of such taxes shall not be collected by such treasurers, they shall return the same with other delinquent taxes for the year 1861, to the county treasurers, who shall collect the same as other taxes are by them collected, and proceed to the sale of said tracts or lots of land for the non-payment of such taxes, as in other cases, which sale shall be of like effect and subject to the same conditions as sales made for the non-payment of taxes under existing laws; and it shall be the duty of the county treasurers and clerks of the county board [boards] of supervisors, into whose hands any of such delinquent taxes shall come, to pay the same to the said clerk appointed under this act; and said officers are made liable on their official bonds for such moneys in the same manner as is now provided by law touching their liabilities for other moneys.

If not paid, lands may be sold.

Moneys arising from sales to be paid to clerk.

SECTION 9. It shall be the duty of said commissioners to expend the money so collected and apply the same on said road in such manner as will improve the same to the best advantage, and they shall proceed with the same without unnecessary delay.

How moneys to be expended.

SECTION 10. A majority of said commissioners shall constitute a quorum to transact any business provided for in this act; and each commissioner, and said clerk appointed by them, shall be entitled to and receive one dollar and fifty cents per day for every day actually and necessarily spent in the discharge of their duties under this act: *provided*, no such expense shall be chargeable to the state.

Quorum—salaries of commissioners and clerk

Proviso.

SECTION 11. This act shall take effect and be in force from and after its passage.

Approved March 28, 1861.

CHAPTER 137.

[*Published April* 1, 1861.]

AN ACT to lay out and establish a state road.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. The line of road of the Milwaukee and Lisbon plank road company, including their road bed, between the village of Merton, in Waukesha county, and the east line of the town of Brookfield, in said county, having been abandoned by said company, is hereby declared and established as a state road, and subject to the control and management of the towns respectively in which said road is situated, like other highways.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved March 28, 1861.

CHAPTER 144.

[*Published April* 4, 1861.]

AN ACT to amend an act entitled "an act to amend chapter 344 of the private and local laws of 1856, entitled 'an act to incorporate the village of Delavan.'"

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Erection of watch house.

SECTION 1. The fifteenth subdivision of section seventeen of the act to incorporate the village of Delavan, approved April 18th, 1858, is hereby amended by adding after the word "same" in said subdivision of said section, the following, to wit: "and for that purpose the president and trustees shall have power to erect and establish, at any place within the bounds of the corporation, a building to be known as a watch house, the cost of the same not to exceed one hundred dollars. The cost of said building shall be assessed

and collected on the taxable property in said corporation of said village of Delavan, in the same manner as the corporation tax is now assessed and levied by said president and board of trustees (*in which said building is situated.*) The marshal, president and board of trustees, or either of them, or any constable or justice of the peace residing in said corporation, shall have power to confine any drunken or obscene person or persons, or any person guilty of noisy or disorderly conduct in the streets of said village, not exceeding forty-eight hours, (*and*) until such reasonable time as said person or persons so arrested can be brought before a justice of the peace or the president of said corporation to be tried for the offense for which he or they are so arrested; and the expense of confining and maintaining the person or persons so arrested, shall be assessed upon the taxable property in said corporation, and collected in the same manner as the general corporation tax is now levied and collected.

How costs assessable and collectable.

Who may be confined.

Costs of imprisonment, &c.

SECTION 2. Section twenty-eight of said act of incorporation, approved April 18th, 1858, is hereby amended by striking out after the word "purpose" in the fifth line from the top of said section, the words "and whenever the president and trustees," and inserting as follows, to wit: "and whenever such application shall be made as aforesaid, and the consent of all the owners of the property interested cannot be obtained, the president and trustees shall cause to be summoned twelve disinterested freeholders, who first being duly sworn for that purpose, shall sit as a jury and inquire into the merits of said application and the necessity thereof, and shall, within twenty days after their appointment as aforesaid, report their opinion thereon in writing, signed by them, to the said president and board of trustees; and the said president and board of trustees shall not have power to act farther upon said application unless the said jury shall report to them as aforesaid the necessity of the object thereof."

Jury to inquire into merits of application for street improvements, &c.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved March 29, 1861.

CHAPTER 145.

[*Published April* 3, 1861.]

AN ACT to amend section 12 [of chapter 3] of chapter 267 of the private and local laws of 1858, entitled "an act to incorporate the city of Stevens Point."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Jurisdiction of police justice.

SECTION 1. Section 12 [of chapter 3] of chapter 267 of the private and local laws of the state of Wisconsin, for the year 1858, entitled "an act to incorporate the city of Sevens Point," is hereby amended by inserting the words "and criminal" after the word "civil," in the second [third] line of said section.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 29, 1861.

CHAPTER 147.

[*Published April* 5, 1861.]

AN ACT to lay out a state road from Kewaunee to Green Bay.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Commissioners.

SECTION 1. C. H. Cunningham, J. R. Slawson, E. P. Carter, E. Decker and F. S. Ellis are hereby appointed commissioners to lay out and establish a state road from Kewaunee, in Kewaunee county, to Green Bay, in Brown county. Said commissioners shall, at the time of laying out said road, award to the owners of land through which the same is laid, such damages as they shall deem just, which damages shall be paid by the several towns in which such lands are situated.

Shall award damages.

Oath.

SECTION 2. Before entering upon the duties required by this act, the said commissioners shall take and subscribe an oath to perform such duties faithfully and impartially, and shall execute to the people of the

counties of Kewaunee and Brown, a bond in the penal sum of two thousand dollars, with such surety or sureties as the county judge and county treasurer of Kewaunee county shall approve, conditioned for the faithful and just expenditure of all moneys that may come into their hands by virtue of this act, and for the faithful performance of all their duties under this act, and shall file said bond and oaths of office with the county treasurer of Kewaunee county. Said county judge and county treasurer are hereby authorized to prosecute said bond whenever the condition thereof shall be broken, and shall have power to require said commissioners to account to them as often as they may deem necessary, and also to fill all vacancies which may occur from any cause in said board of commissioners.

Bond.

Bond may be prosecuted.

SECTION 3. Said commissioners shall appoint a clerk, who shall act as treasurer under the provisions of this act.

Clerk and treasurer.

SECTION 4. On or before the fifteenth day of August, A. D. 1861, the clerk appointed under this act shall make out an assessment roll containing a description of all the tracts or lots of lands lying along the line of said road, of which one-half of each such tract or lot shall lay within one and one-half miles of said road, which in the opinion of said commissioners will be particularly benefited by the improvement of said road; and on completion of said roll, said commissioners shall meet on such day in the month of July or August, A. D. 1861, and at such place as they may agree upon, for the purpose of laying an assessment on such tracts or lots of lands; and they shall assess them at their true cash value, setting down opposite each tract or lot of land described in said roll, the valuation as aforesaid.

Lands within one and a half miles each side of road to be assessed.

SECTION 5. Said commissioners shall lay such tax on all the tracts and lots of land aforesaid, as in their opinion may be necessary to improve said road and render the same passable as a good wagon road, not to exceed five cents on the dollar. The said clerk shall then calculate and carry out such tax opposite each tract or lot therein described.

Amount of tax.

SECTION 6. On or before the eighteenth day of September, A. D. 1861, the clerk appointed under this act shall proceed to collect the taxes in said roll, in the same manner and with like powers as town treasurers are authorized by law to collect county and town taxes.

Tax to be collected by clerk.

CHAPTER 147.

May be worked out.

SECTION 7. Any person charged with taxes in said roll, may work out the same at one dollar per day, under the direction of said commissioners, or either of them, or by furnishing materials at such price as may be agreed upon.

How unpaid taxes shall be collected.

SECTION 8. In the event of any part of the tax remaining unpaid on any of the property described in said roll, it shall be the duty of the clerk or one of said commissioners, on or before the fifteenth day of November, A. D. 1861, to make out a list of such delinquent tracts or lots of land, and return the same to the town clerks respectively of the several towns through which the road runs; and it shall be and is hereby made the duty of said town clerks to enter such unpaid taxes in their respective tax lists for the year 1861, opposite the proper description of said tracts or lots of land; and such unpaid taxes shall then be collected by the town treasurers of said towns respectively, in money, at the time and in the manner of collecting county, state and other taxes. It shall be the duty of such treasurers to pay over all such moneys collected by them to the clerk appointed under this act, on demand, taking proper vouchers therefor. In case any part of said taxes shall not be collected by such treasurers, they shall return the same with other delinquent taxes for the year 1861, to the county treasurers, who shall collect the same as other taxes are by them collected,

If not paid, lands to be sold.

and proceed to the sale of said tracts or lots of land for the non-payment of such taxes as in other cases, which sale shall be of like effect and subject to the same conditions as sales made for the non-payment of taxes under existing laws; and it shall be the duty of the county treasurers and clerks of the county boards of supervisors, into whose hands any of such delinquent taxes

Moneys arising from sales to be paid to clerk.

shall come, to pay the same to the said clerk appointed under this act; and said officers are made liable on their official bond for such moneys in the same manner as is now provided by law touching their liabilities for other moneys.

How said moneys to be expended.

SECTION 9. It shall be the duty of said commissioners to expend the money so collected and apply the same on said road in such manner as will improve the same to the best advantage, and they shall proceed with the same without unnecessary delay.

SECTION 10. A majority of said commissioners shall constitute a quorum to transact any business provided for in this act; and each commissioner, and said clerk appointed by them, shall be entitled to and receive one dollar and fifty cents per day for every day actually and necessarily spent in the discharge of their duties under this act: *provided*, that no such expense shall be chargeable to the state. Quorum—salaries of commissioners and clerk

SECTION 11. This act shall take effect and be in force from and after its passage.

Approved March 29, 1861.

CHAPTER 148.

[*Published April* 4, 1861.]

AN ACT to lay out a state road in the towns of Franklin, Montpelier and Casco, in Kewaunee county.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Barney Hanson, Henry Christman, Edward Decker, John Axtell and Edward Weyman are hereby appointed commissioners to lay out and establish a state road from some point in or near section 36, town 22, range 23, in the town of Franklin, through the towns of Franklin and Montpelier, to some point on the Ahnepee and Green Bay road, in section 14, town 24, range 23, in the town of Casco, in Kewaunee county. Said commissioners shall at the time of laying out said road, award to the owners of lands through which the same is laid, such damages as they shall deem just, which damages shall be paid by the several towns in which said lands are situated. Commissioners. Shall award damages.

SECTION 2. Before entering upon the duties required by this act, the said commissioners shall take and subscribe an oath to perform such duties faithfully and impartially, and shall execute to the people of Kewaunee county, a bond in the penal sum of two thousand dollars, with such surety or sureties as the county judge and county treasurer of said county shall approve, conditioned for the faithful and just expenditure Oath. Bond.

CHAPTER 148.

of all moneys that may come into their hands by virtue of this act, and for the faithful performance of all their duties under this act, and shall file said bond and oath of office with the county treasurer of said county of Kewaunee. Said county judge and county treasurer are hereby authorized to prosecute said bond whenever the condition thereof shall be broken, and shall have power to require said commissioners to account to them as often as they may deem necessary, and also to fill all vacancies which may occur from any cause in said board of commissioners.

Bond may be prosecuted.

Clerk and treasurer.

SECTION 3. Said commissioners shall appoint a clerk, who shall act as treasurer under the provisions of this act.

Lands within one and a half miles each side of road to be assessed.

SECTION 4. On or before the fifteenth day of August, A. D. 1861, the clerk appointed under this act shall make out an assessment roll containing a description of all the tracts or lots of land lying along the line of said road, of which one-half of each such tract or lot shall lay within one and one-half miles of said road, which in the opinion of said commissioners will be particularly benefited by the improvement of said road; and on completion of said roll, said commissioners shall meet on such day in the month of July or August, A. D. 1861, and at such place as they may agree upon, for the purpose of laying an assessment on such tracts or lots of land; and they shall assess them at their true cash value, setting down opposite each tract or lot of land described in said roll, the valuation as aforesaid.

Amount of tax.

SECTION 5. Said commissioners shall lay such tax on all the tracts and lots of land aforesaid, as in their opinion may be necessary to improve said road and render the same passable as a good wagon road, not to exceed five cents on the dollar. The said clerk shall then calculate and carry out such tax opposite each tract or lot therein described.

Tax to be collected by clerk.

SECTION 6. On or before the eighteenth day of September, A. D. 1861, the clerk appointed under this act shall proceed to collect the taxes in said roll, in the same manner and with like powers as the town treasurers are authorized by law to collect county and town taxes.

Tax may be worked out.

SECTION 7. Any person charged with taxes in said roll, may work out the same at one dollar per day, under

the direction of said commissioners or either of them, or by furnishing materials at such prices as may be agreed upon.

How unpaid taxes shall be collected.

SECTION 8. In the event of any part of the tax remaining unpaid on any of the property described in said roll, it shall be the duty of the clerk or one of said commissioners, on or before the fifteenth day of November, A. D. 1861, to make out a list of said delinquent tracts or lots of land, and return the same to the town clerks respectively of the several towns through which the road runs; and it shall be and is hereby made the duty of said town clerks to enter such unpaid taxes in their respective tax lists for the year 1861, opposite the proper description of said tracts or lots of land; and such unpaid taxes shall then be collected by the town treasurers of said towns respectively, in money, at the time and in the manner of collecting county and state and other taxes. It shall be the duty of such treasurers to pay over all such moneys collected by them to the clerk appointed under this act, on demand, taking proper vouchers therefor. In case any part of said taxes shall not be collected by such treasurers, they shall return the same with other delinquent taxes for the year 1861, to the county treasurers, [treasurer,] who shall collect the same as other taxes are by them [him] collected, and proceed to the sale of said tracts or lots of land for the non-payment of such taxes, other as in cases, which shall be of like effect and subject to the same conditions as sales made for the non-payment of taxes under existing laws; and it shall be the duty of the county treasurer and clerk of the county board of supervisors into whose hands any of such delinquent taxes shall come, to pay the same to the said clerk appointed under this act; and said officers are made liable on their official bond for such moneys in the same manner as now provided by law, touching their liabilities for other moneys.

If not paid, land to be sold.

Moneys arising from sales to be paid to clerk.

How said moneys to be expended.

SECTION 9. It shall be the duty of said commissioners to expend the money so collected and apply the same on said road in such manner as will improve the same to the best advantage, and they shall proceed with the same without unnecessary delay.

Quorum—salaries of commissioners and clerk.

SECTION 10. A majority of said commissioners shall constitute a quorum to transact any business provided for in this act; and each commissioner and said clerk

CHAPTER 156. appointed by them, shall be entitled to and receive one dollar and fifty cents per day for every day actually and necessarily spent in the discharge of their duties under this act: *provided*, no such expense shall be chargeable to the state.

Proviso.

SECTION 11. This act shall take effect and be in force from and after its passage.

Approved March 29, 1861.

CHAPTER 156.

[*Published April* 2, 1861.]

AN ACT to amend an act entitled "an act to amend 'an act to incorporate the village of Horicon,' approved March 29th, 1855."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Collection of taxes.

SECTION 1. Section three of said act shall read as follows: It shall be the duty of the clerk of said village to certify and return to the town clerk of each town in which any part of said village shall lie, all taxes voted at any regular, annual or special village meeting, in the same manner as clerks of joint school districts are now required to make returns and statements of taxes voted at annual school district meetings; and the said town clerks shall assess said taxes upon the real and personal property liable thereto, in the same manner as said school taxes are assessed, and be placed on the assessment rolls of said towns in a separate column, and be collected in the same manner as other taxes on said roll, and when collected to be paid over to the treasurer of said village or to the person entitled to receive the same. Assessments for grading streets and laying sidewalks shall be levied as now provided by law; and when any special warrant for any such assessment shall be returned to the clerk of said village, he shall certify the amount of uncollected assessments on such warrant, with the premises and persons against whom they are levied, as they appear upon such warrant, to the clerk of the town in which said premises so returned shall lie, who shall put

them upon the next assessment roll of said town, to be collected and enforced as other taxes on said roll, and when collected, shall be paid over to the treasurer of said village or to the person entitled to receive the same.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 29, 1861.

CHAPTER 161.

[*Published March* 30, 1861.]

AN ACT to amend chapter 327 of the private and local laws of 1856, entitled "an act to consolidate and amend the act to incorporate the city of Watertown, and the several acts amendatory thereof."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Return and sale of lands for unpaid taxes.

SECTION 1. The treasurer of the city of Watertown is hereby required to return all delinquent state, county, school and city taxes to the county treasurer of the proper county, at the same time and in the same manner town treasurers are required by law to make returns; and such county treasurer shall sell the lots or parcels of land on which such taxes remain unpaid, in the same manner he is required by law to sell other lands for delinquent taxes; and all laws relating to the redemption of lands from taxes, and the executing of tax deeds, shall apply to such sale, so far as the same are properly applicable thereto.

Tax deeds.

SECTION 2. Upon all tax certificates heretofore issued by the city treasurer, upon the sale of lots or parcels of land for delinquent taxes, he shall execute tax deeds to the person or persons entitled thereto, in the same manner and with like effect as if this act had not been passed.

Appropriations.

SECTION 3. In all appropriations of money by the common council of said city, the ayes and noes shall be taken and recorded on the journal.

CHAPTER 163.

Abolition of office of police justice.

SECTION 4. The office of police justice of said city is hereby abolished, and the justices of the peace of said city shall have and may severally exercise the powers heretofore exercised by said police justice, as well as the powers of justices of the peace of the several towns of this state: *provided*, that said justice shall have jurisdiction coextensive with the county only in which they may be elected. The present police justice shall deliver his docket and papers over to the nearest justice of the peace in said city, who is hereby authorized to carry into execution all judgments entered in said docket, and to give certified copies of papers and records in the same manner and with like effect as said police justice could do.

Jurisdiction of justices.

Docket, &c., of present police justice.

Repeal.

SECTION 5. So much of chapter seven of said act as is inconsistent with the provisions of this act, is hereby repealed.

Powers of marshal abridged.

SECTION 6. The marshal of said city shall have no right or power to serve or execute any writ or process in any suit or proceeding, either civil or criminal, except cases to which said city shall be a party.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1861.

CHAPTER 163.

[*Published April* 9, 1861.]

AN ACT to amend chapter 136 of the private laws of 1857, entitled "an act to grant additional powers to the board of trustees of the village of Neenah, and to enlarge the boundaries of said village."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amendments.

SECTION 1. That section one of chapter one hundred and thirty-six of the private laws of Wisconsin, [of 1857,] is hereby amended by striking out the words "two-thirds" where the same occur in the thirty-second line of said section, and inserting in lieu thereof the words "a majority;" also, after the word "construction" in the thirty-fourth line and before the

word "of" in the thirty-fifth line of said section, insert "or repairing;" also, by inserting between the words "construction" and "of" where the same occur in the thirty-seventh line of said section, the wor s "or repairing;" also, by striking out the word "provide" where the same occurs in the thirty-ninth line of said section, and insert [inserting] in lieu thereof the word "proceed;" also, insert between the words "build" and "said" where the same occur in t fortieth line of said section, the words" or repair."

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 4, 1861.

CHAPTER 164.

[*Published April* 6, 1861.]

AN ACT to provide for laying out a state road in the counties of of Brown and Kewaunee.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Commissioners—their powers.

SECTION 1. Edward Decker, of Kewaunee county, and Robert Gibson and George Schaver, of Brown county, are hereby appointed commissioners, with full power to lay out and establish a state road from a point on the old Kewaunee road, between the lands of John Crowley and Thomas Atkinson, in section 27, town 24, range 21, in Brown county; running thence east to the quarter section post on the line of sections 25 and 26, town and range aforesaid; thence north-easterly, following the ridge road, to the center of section 24, town 24, range 21; thence east along the center line of section 24, town 24, range 21, and sections 19, 20 and 21, town 24, range 22, to where said line intersects the Kewaunee road in Kewaunee county.

Compensation.

SECTION 2. Said commissioners may proceed to view and lay out said road, and upon the performance of their duty under this act, shall be entitled to a reasonable compensation for their services, which shall be audited by the county boards of supervisors and paid by

CHAPTER 191.

the county treasurers of the counties in which the road is so laid: *provided*, that no part of the expense of laying out said road shall be paid out of the state treasury.

Proviso.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved April 4, 1861.

CHAPTER 191.

[*Published April* 15, 1861.]

AN ACT to lay out a state road from Alma, in the county of Buffalo, to Prescott, in the county of Pierce.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Commissioners.

SECTION 1. Henry D. Barron, John D. Trumbull and C. F. Hoyt are hereby appointed commissioners to survey, lay out and establish a state road from the village of Alma, in the county of Buffalo, on the nearest and most practicable route, by the way of the village of Pepin, in the county of Pepin, to the city of Prescott, in the county of Pierce.

Duties and compensation.

SECTION 2. The said commissioners, or a majority of them, shall meet at such place as a majority of them may designate, and proceed to view, lay out and establish said road; and they shall receive therefor, on the completion of their said labors, a reasonable compensation, to be paid equally by each county through which said road shall be located: *provided*, that no part of the expense of laying out said road shall be paid by the state.

Proviso.

Shall make and file report.

SECTION 3. Said commissioners shall, immediately after laying out said road, cause a report of their survey to be made and filed with the clerk of [the] board of supervisors of each county through which said road passes.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved April 10, 1861.

CHAPTER 219.

[*Published April* 17, 1861.]

AN ACT to lay out a state road in Douglas and La Pointe counties.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Commissioners—their powers and duties.

SECTION 1. That James Ritchee, George R. Stuntz and Richard Relf be and are hereby appointed commissioners to lay out a state road, commencing at or near Second street, in the town of Superior, Douglas county, and terminating at or near Washington avenue, in the town of Bayfield, La Pointe county, Wisconsin, who, or any two of whom, after being duly sworn, before some justice of the peace, to perform the duties of this act with fidelity, shall meet at some time agreed upon by the aforesaid commissioners, and carefully view the ground over which said road is to pass, and lay out and locate a good summer wagon road between said points, not less than thirty feet in width, trees to be well slashed, not less than thirty feet on each side, with a suitable grade, and shall distinctly mark the same; after which they shall make out two correct maps or drafts thereof, and file one of the same in the office of the clerk of the board of supervisors of each of said counties; whereupon said road shall become a public highway; and it shall be the duty of the respective supervisors to open said road, so marked as aforesaid, as soon as possible, and keep the same in repairs, as other highways in the said counties.

Compensation.

SECTION 2. That the said commissioners shall receive the sum of three dollars for every day they shall necessarily be engaged in the performance of their duties; and such assistants as they may employ, not exceeding three, shall receive one and one-half dollars per day, to be paid from the treasuries of the respective counties, in proportion to the length of the road in each county respectively, on orders of the respective county supervisors, who shall adjust their accounts: *provided*, that no part of the expenses incurred under this act shall ever be paid by the state.

Approved April 11, 1861.

CHAPTER 220.

[*Published April* 18, 1861.]

AN ACT to legalize certain highways in the county of Washington.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Highways less than four rods wide.

SECTION 1. All highways heretofore laid out and established in the town of Polk, in the county of Washington, wherein the order of the supervisors of said town established said highways less than four rods in width, are hereby legalized, so far as relates to the order of the supervisors establishing such highways.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 11, 1861.

CHAPTER 223.

[*Published April* 17, 1861.]

AN ACT to amend section 3 of chapter 6 of chapter 275 of the private and local laws of 1857, entitled "an act to incorporate the city of Hudson."

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Powers and duties of street commissioners.

SECTION 1. Section 3 of chapter 6 of chapter 275 of the private and local laws of 1857, entitled "an act to incorporate the city of Hudson," is hereby amended by striking out of the ninth line of said section the words "sue for," and inserting after the word "thereof" in the tenth line of said section, the following words: "in the manner provided in sections 39, 40, 41 and 42 of chapter 19 of the revised statutes of 1858." Section 12 of chapter 3 of the said act is hereby amended by striking out the words "in civil" in the 3d line, and inserting in lieu thereof the words "in and for the county of St. Croix, in all civil and criminal actions, and."

Jurisdiction of police justice.

SECTION 2. This act shall take effect from and after its passage.

Approved April 11, 1861.

CHAPTER 225.

[*Published April* 16, 1861.]

AN ACT to appropriate to Nathan S. Hill and Elisha E. Hundley a sum of money therein named.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Amount appropriated.

SECTION 1. There is hereby appropriated to Nathan S. Hill and Elisha E. Hundley, out of the school fund, to be drawn by J. T. Clark, their attorney, the sum of eight hundred and seventeen dollars and forty-two cents, in full for all claims against the state, of them or either of them, as grantees of Thomas Reynolds, of lots one, two, three, four, five, six, seven, eight, eleven, twelve, thirteen, fourteen, fifteen and sixteen, in block fifty-two, in McFarlane, Dunn and Armstrong's addition to Portage city, sold by the commissioners of school and university lands to the said Reynolds, on the 17th day of December, A. D. 1856, on a mortgage of the same to the state, executed by Hugh McFarlane, Sarah McFarlane and William Armstrong, to the state of Wisconsin, as security for a loan of five hundred dollars, and the title to which hath wholly failed, by reason of incumbrances thereon prior to said mortgage to the state.

SECTION 2. This act shall take effect from and after its passage.

Approved April 12, 1861.

CHAPTER 228.

[*Published April* 16, 1861.]

AN ACT to quiet the title to certain lands in Rock county.

Preamble.

Whereas, Benjamin Collins, late of Rock county, Wisconsin, deceased, on the 18th day of April, A. D. 1852, died leaving a last will and testament, in and by which he devised to his widow Deidama Collins, the north-west quarter of the north-east quarter and the

CHAPTER 228. north-east quarter of the north-west quarter of section number five, (5,) in township number four, (4,) north of range number twelve (12) east, to have and to hold the same during her natural life, and did also in and by said will devise said above described lands to his minor son Thomas Benjamin Collins, to have and to hold the same after the decease of the [said] Deidama Collins; and did also in and by said will provide that the said Deidama Collins should educate and support the said Thomas Benjamin Collins from the said lands;

And whereas, the said Deidama Collins, not being able to educate and support herself and the said Thomas Benjamin Collins in a proper manner out of the rents, issues and profits of said lands, did, as the guardian of said Thomas Benjamin Collins, duly appoint, apply to the county court of Rock county and obtain from said court an order of license bearing date the 8th day of September, A. D. 1856, to sell the interest of the said infant Thomas Benjamin Collins in said lands, and did under and in virtue of said license sell at public auction the interest of said infant in said lands to one Delos H. Palmer, which sale was confirmed by said court, and the interest of said infant conveyed by said guardian to said Palmer, and said guardian did at the same time convey to said Palmer all of her interest in said lands, and did receive a portion of the purchase money therefor and a mortgage to secure the payment of the balance;

And whereas, doubts and litigation in consequence thereof have arisen in regard to the title of said Palmer to said lands under the sale and conveyance aforesaid, and all of the parties interested being desirous that said sale and conveyance shall be held valid and binding upon all persons: Now, therefore,

The People of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

Acts of court declared valid.

SECTION 1. That all of the proceedings of the county court of Rock county, in granting said order of license to said Deidama Collins, as guardian as aforesaid, and all the acts and doings of the said Deidama Collins, in selling and conveying said lands to said Delos H. Palmer, under and in virtue of said license, be and the same are hereby declared to be valid and bind-

ing upon all persons whosoever, notwithstanding said proceedings and sale may have been contrary to the provisions of said last will and testament of said Benjamin Collins, deceased; and the title of said premises above described shall be deemed to have vested in said Delos H. Palmer, by virtue of such proceedings, sale and conveyance aforesaid, as of and at the time of the execution and delivery of said conveyance to him.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 12, 1861.

CHAPTER 233.

[*Published April* 17, 1861.]

AN ACT to amend chapter 299 of the private and local laws of 1855, entitled "an act to incorporate the Sugar River Valley railroad company," and the acts amendatory thereto, and to repeal and annul a portion of a grant of land heretofore made to the La Crosse and Milwaukee railroad company.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

May locate road from Madison and Columbus to Portage city.

SECTION 1. The Sugar River Valley railroad company is hereby authorized and empowered to survey, locate, contract, complete and operate a railroad from the city of Madison, in the county of Dane, and the village of Columbus, in the county of Columbia, on the most direct and feasible routes, to the city of Portage, in the county of Columbia; and shall have, exercise and enjoy the same rights, privileges, franchises and authority with reference to said routes, or any railroads to be built thereon, as it now possesses with reference to any part it is now authorized to occupy, or any railroad built or to be built thereon; and there is hereby conferred upon the Sugar River Valley railroad company all the powers and authority contained in the charter of said company and in the acts amendatory thereof, for the purpose of carrying out the objects of this act and of appropriating and applying the lands hereinafter granted or their proceeds, to aid in the construction of railroads by this act authorized to be built.

Corporate powers.

CHAPTER 233.

When roads to be completed.

SECTION 2. The said railroad shall be constructed on the most direct and feasible routes from Madison and Columbus respectively, to the city of Portage, and simultaneously as near as practicable, and both of them shall be completed by the 31st day of December, 1863; and for the purpose of estimating and selecting the lands granted by Congress, the city of Madison is hereby designated as the point of commencement of the said railroad.

Lands granted in aid of construction of said roads.

SECTION 3. For the purpose of aiding in the construction of said railroad from the city of Madison, in the county of Dane, and from the village of Columbus, in the county of Columbia, to the city of Portage, in the county of Columbia, there is hereby granted to the Sugar River Valley railroad company, all the interest and estate, present and prospective, of this state in and to so much of the lands granted by the government of the United States to the state of Wisconsin, for the purpose of aiding in the construction of a railroad from Madison or Columbus, by way of the city of Portage, to the St. Croix river or lake, and from thence to Lake Superior and to Bayfield, by virtue of an act of Congress, entitled "an act granting a portion of the public lands to the state of Wisconsin, to aid in the construction of railroads," approved June 3d, 1856, as is or can be made applicable to the construction of that part of said railroad lying between the city of Madison and the city of Portage, together with all and singular the rights, privileges and immunities conferred or intended to be conferred by said act of congress to so much of said grant of land, and the same are hereby granted to the said Sugar River Valley railroad company, except as hereinafter provided. The title of said lands shall vest in the said Sugar River Valley Railroad company in manner following, that is to say: Whenever twenty continuous miles of the said railroad between the city of Madison and the city of Portage, shall have been completed so as to admit of running regular trains on the same, the governor of this state shall certify to the secretary of the interior the fact that such twenty continuous miles of such road are completed as aforesaid, then the title to one hundred and twenty sections of said land shall vest in the said Sugar River Valley railroad company; and when all of the railroad from the village of Co-

How title to vest.

lumbus to the city of Portage, and a second twenty continuous miles of the railroad from the city of Madson to the city of Portage, shall have been completed, so as to admit of the running of regular trains on the same, then the governor shall certify as above, and thereupon the title to a further quantity of one hundred and twenty sections of said lands shall vest in said company: *provided*, the said Sugar River Valley railroad company shall not, for the purpose of aiding in the construction of said road from Madison to Portage city, encumber any of the lands to which said company is to be entitled on the completion of said first twenty miles of said railroad.

Lands not to be encumbered.

SECTION 4. The governor of this state in his official capacity, and in behalf of the state and under the great seal thereof, shall execute and deliver to the Sugar River Valley railroad company, or their legal representatives, or their assignees, whenever, by virtue of the provisions of this act, said company shall be entitled to any of said lands, a deed in fee simple of any and all of the lands to which the said company may be entitled.

How deed to lands to be executed.

SECTION 5. If it shall appear upon the location of said road, that any of the lands granted by the act of congress aforesaid, applicable to the construction of said road, have been sold or disposed of by the United States, the governor, upon application of said company, shall appoint such agent or agents as may be necessary to select and locate other lands in lieu thereof, as provided in the act of congress aforesaid, and such selections shall be made at the expense of said railroad company, and no part of such expense shall be paid out of the state treasury. Such railroad shall be and remain a public highway for the use of the government of the United States, free from tolls and other charges upon the transportation of property or troops of the United States, and the United States mail shall be transported over said road under the direction of the post office department, as provided in said act of congress.

Other lands may be selected.

United States troops, &c., to be transported free.

SECTION 6. In case the Sugar River Valley railroad company shall construct their railroad, or any part of it, upon or over any route upon or over which any other railroad company is authorized to construct a railroad, and upon or over which it has, prior to the passage

Board of commissioners to award damages to any company whose property and rights of property may be taken or injured.

CHAPTER 233.

of this act, actually surveyed or located its line of railroad, it shall be the duty of the Sugar River Valley railroad company to settle with such railroad company upon principles of justice and equity, for all the property and rights of property which the said Sugar River Valley railroad company shall take, injure or destroy; and the latter company shall pay to such company, whose property or rights of property shall be thus taken, injured or destroyed, whatever the same is reasonably worth, such payment to be made in money, bonds, stocks or lands, or in such other manner as said companies shall mutually agree; and if the said companies cannot mutually agree upon the amount of compensation to be made by the Sugar River Valley railroad company to such other company, for the property and rights of property which the said Sugar River Valley railroad company shall as aforesaid take, injure or destroy, then and in that case each of said companies shall select a disinterested engineer, and the two engineers so selected shall choose a third person, and in case they cannot agree upon such third person, the governor shall appoint such third person, and the third person so selected, together with the said engineers, shall constitute a board of commissioners, whose duty it shall be to ascertain, determine and award the amount of compensation which the said Sugar River Valley railroad company ought, in justice and equity, to make to such other railroad company for the property and rights of property which shall be as aforesaid taken, injured or destroyed.

When grant be void.

SECTION 7. This act and the grant herein contained, shall cease and be void unless the said Sugar River Valley railroad company shall accept the same within twenty days after the taking effect of this act. Such acceptance shall be by resolution adopted by the directors of said company, a copy of which, duly certified by the secretary of said company, within the said period of twenty days, shall be deposited in the office of the secretary of state; and in case the said company shall fail to expend at least fifty thousand dollars in the construction of said road within one year, or shall fail to complete the road from Madison to Portage city so as to admit of the running of regular trains upon the same by the 31st of December, 1863, or shall otherwise violate the provisions of this act, the

legislature may repeal the same and may revoke and annul all and singular the rights and franchises herein conferred upon said company, so far as the same have not been performed and fulfilled, and so far as the rights and privileges granted have not become complete and absolute or vested.

Franchises may be revoked.

SECTION 8. So much of an act entitled "an act to grant certain lands to the La Crosse and Milwaukee railroad company, and to execute the trust created by an act granting public lands to the state of Wisconsin to aid in the construction of railroads in said state," approved October 11th, 1856, and so much of the grant of lands as by said act was made to the La Crosse and Milwaukee railroad company, as is or can be made applicable to the construction of a railroad from the city of Madison to Portage city, and from the village of Columbus to Portage city, and all and singular the rights, privileges and franchises thereby conferred, granted and conveyed to the said La Crosse and Milwaukee railroad company, so far as the roads from Madison to Portage city, and from Columbus to Portage city, and the lands granted to aid in the construction of the same, are concerned, are hereby repealed, revoked, annulled and declared void.

Repeal.

SECTION 9. This act is hereby declared a public act, and shall take effect and be in force from and after its passage and publication.

Public act.

Approved April 12, 1861.

CHAPTER 245.

[*Published April* 25, 1861.]

AN ACT to provide for the disposal and expenditure of the drainage fund in the town of Forestville, in Door Co., and the town of Ahnepee, in Kewaunee Co.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. For the purpose of draining the swamp lands along the banks of the Ahnepee river, in the counties of Kewaunee and Door, the drainage moneys belonging to the towns of Forestville and Ahnepee, in said counties, for the year 1861, shall be expended in

Swamp lands on the Ahnepee river.

CHAPTER 246.

Commissioner—his bond, salary, &c.

opening the mouth of said Ahnepee river, David Youngs is hereby appointed a commissioner for the purpose of expending such moneys. The said Youngs shall, before entering upon the duties of his appointment, give such bond to the town boards of Forestville and Ahnepee, for the faithful performance of his duties under the provisions of this act, as they shall deem proper; and he shall receive for each day actually and necessarily spent by him in the performance of the duties enjoined by this act, the sum of one dollar, and fifty cents for each half day.

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 246.

[*Published April* 26, 1861.]

AN ACT to provide for the disposal and expenditure of the drainage fund in the county of Portage.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Money to be paid to county treasurer.

SECTION 1. That portion of the interest of the drainage fund which shall hereafter become due to the county of Portage, shall be paid over to the county treasurer of said county, at the same time with the money due to said county from the school fund for each year.

To be apportioned among the towns of the county.

SECTION 2. It shall be the duty of the county treasurer of said county, immediately upon the receipt of said drainage money, together with any and all drainage fund money belonging to said county that may be in his hands or subject to his control, at the time of the passage of this act, to apportion the same among the several towns of said county in proportion to the amount received from the sale of swamp and overflowed lands in said towns respectively; and he shall immediately give notice in writing to the treasurer of each town in said county of the amount apportioned to his town.

Town treasurer to give bonds, &c.

SECTION 3. Each town treasurer before receiving the drainage money apportioned to the town of which he is treasurer, or any part thereof, shall execute to the chairman of the town board of supervisors of such town a bond, with two sureties, to be approved by said chairman, by endorsement over his own signature on said bond, in a penal sum not less than double the amount of such drainage money as shall come into his hands, conditioned upon the faithful application and disbursement of all such drainage money, in such manner as shall be prescribed by this act, which said bond he shall deliver to the town clerk of said town to be filed in his office.

County treasurer to pay moneys to town treasurers.

SECTION 4. The town clerk of said town, on the receipt thereof, shall file and safely keep such bond in his office, and he shall give to said town treasurer a receipt stating that he has filed the bond required by the preceding section of this act, which receipt the said treasurer shall deliver to the county treasurer, who shall on the delivery thereof, pay over to the said town treasurer the amount of drainage moneys apportioned to said town.

Town treasurer to pay out money on order of town board.

SECTION 5. The town treasurer shall receive and safely keep in his possession all such moneys, and shall pay out the same only upon the orders of said town board, duly signed by the chairman thereof and countersigned by the clerk of said board; and said town treasurer shall receive as a compensation for the performance of the duties devolving upon him under this act, the sum of two per cent. upon all such drainage moneys as shall pass through his hands.

How money to be applied.

SECTION 6. The said moneys, when so paid into the town treasury, shall be under the control of the town board of supervisors of said town, and shall be expended under their direction, in the improvement of roads, and the building of bridges in the several towns. The members of the said town board shall be entitled to the sum of one dollar and fifty cents per day for each and every day actually employed in the performance of the duties enjoined by this act, to be defrayed out of the drainage fund of said town.

Compensation.

Town board to make annual report.

SECTION 7. The town board of each town in said county shall annually, on the second day of the annual meeting of the county board of said county, make a full and complete report to the said county board of

CHAPTER 247.

the receipts and disbursements of the said drainage money in their respective towns.

County board to make annual report.

SECTION 8. It shall be the duty of the county board of supervisors to make to the state treasurer a full report of the disbursements of said fund, on or before the first day of December of each year.

SECTION 9. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 247.

[*Published April* 16, 1861.]

AN ACT to provide for the disposal and expenditure of the drainage fund income of the county of Waupacca.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Money to be paid to county treasurer.

SECTION 1. That portion of the drainage fund income now due or which may hereafter become due the county of Waupacca, shall be paid over to the county treasurer of said county at the same time with the money due to said county from the school fund income for each year.

To be apportioned among the towns of the county.

SECTION 2. It shall be the duty of the county treasurer of said county, immediately upon the receipt of the said drainage fund money, to apportion the same among the several towns of said county in proportion to the number of acres of swamp and overflowed lands in each of said towns respectively, and shall immediately give notice in writing to the town clerk of each town in said county of the amount apportioned to his town; and the town clerk of each town shall thereupon file in his office such statement of the apportionment, and notify the town board of supervisors of his town, that such apportionment has been made, and of the amount of such apportionment.

SECTION 3. The said money, when so apportioned as aforesaid, shall be under the control of the town board of supervisors of each town respectively, and shall be expended under their direction in the drainage and reclamation of the swamp and overflowed lands in their respective towns, and by [in] building roads and bridges when they shall deem it necessary, over or through the same. The town board is hereby authorized to draw and issue orders on the county treasurer (in the same manner and form that they are authorized to draw and issue orders on the town treasurer) to the amount of the drainage fund in his hands: *provided*, that said board shall issue such orders only for the payment of labor actually done, or material furnished for the purposes designated in this section, or for the payment of their own time actually employed in the performance of the duties enjoined in this act.

How to be applied.

How drawn.

Proviso.

SECTION 4. Each member of the board shall be entitled to receive the sum of one dollar for each and every day actually employed in the performance of the duties enjoined by this act, to be paid out of the drainage fund of said town.

Compensation.

SECTION 5. The town board of each town in said county shall, on the second day of the annual session thereof, make a full and complete report to the said county board of the receipts and disbursements of the said drainage money apportioned to their respective towns.

Town board to make annual report.

SECTION 6. It shall be the duty of the county board of supervisors to make to the state treasurer a full report of the disbursements of said fund, on or before the 10th day of December in each year.

County board to make annual report.

SECTION 7. All moneys belonging to the drainage fund income heretofore paid to the treasurer of the said county of Waupaca, and not yet expended, shall be apportioned and divided among the several towns in said county in the same manner as moneys hereafter to become due to said county arising from the drainage fund.

Apportionment of drainage fund previously received.

SECTION 8. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1861.

CHAPTER 250.

[*Published April* 30, 1861.]

AN ACT to authorize the removal of the county seat of Buffalo county.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Vote on proposition to remove county seat to the city of Buffalo.

SECTION 1. At the annual election to be held on the Tuesday next preceding the first Monday of November next, the legal voters of the county of Buffalo shall be and are hereby authorized to vote upon the question of the removal of the county seat of said county from its present location, at the village of Alma, to the city of Buffalo, and if a majority of all the votes cast on that question, at such election, be in favor of such removal, then the said city of Buffalo shall be the permanent county seat of said county.

Form of ballot.

SECTION 2. The votes cast upon the said question as above provided, shall be by ballot, which shall have written or printed upon them, or partly written and partly printed, the words "for removal," or the words "against removal;" and said ballots shall be deposited by the inspectors of said election in a separate box, to be by them provided for that purpose.

How canvassed, &c.

SECTION 3. The said votes shall be counted, canvassed, returned and certified in the same manner as is provided by law for counting, canvassing, returning and certifying the votes of county officers, and the clerk of the board of supervisors of said county shall record the result of the proceedings of such election in a book of record of the proceedings of said board, and shall immediately transmit a certified copy of such record to the secretary of state, who shall file and preserve the same in his office.

Sheriff to give notice of election

SECTION 4. The sheriff of the county of Buffalo is hereby authorized and required to give notice of the election mentioned in the preceding section, by publishing a notice of the same for at least three weeks previous to said election, in a weekly newspaper of said county, if there be one there published; and if there be none published in the county, then such notice shall be given by said sheriff, by posting up three written or printed notices in three of the most public places in each of the towns of said county.

Application of statutes, &c.

SECTION 5. The provisions of the revised statutes of the state of Wisconsin, in regard to the punishment for illegal voting, are hereby made applicable to the election herein provided for; and at such election, any elector of any town of said county may have and exercise the right to challenge any vote or votes of any person or persons, at the poll of any other town in said county, who shall offer to vote upon the removal of the county seat as above provided for.

Effect.

SECTION 6. If a majority of all the votes cast at such election in said county, on this question, shall be "for removal," then this act shall be in full force and effect from and after the first day of December, 1861.

SECTION 7. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 256.

[*Published April* 19, 1861.]

AN ACT to enable the city of Madison to arrange and settle its indebtedness, and for other purposes.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Common council may issue bonds to one half am't of those heretofore issued to M. & W. R. R.

SECTION 1. The mayor and common council of the city of Madison, are hereby authorized to issue bonds of said city to an amount not exceeding one-half the amount of bonds and coupons now due, of bonds of said city heretofore issued to aid in the construction of the Madison and Watertown railroad, the same to be in full settlement and discharge of said outstanding bonds and coupons of bonds, agreeably to the provisions of this act.

Denomination of bonds, and rate of interest.

SECTION 2. The bonds authorized to be issued by the preceding section, shall be for such amounts, not exceeding one thousand dollars each, as shall be found most convenient and practicable in carrying out the provisions of this act, and bearing interest semi-annually, with coupons of interest attached, from January 1st, 1862; the interest on the same to be at the rate of

CHAPTER 256.

three per cent. per annum for the years 1862, 1863 and 1864, four per cent. per annum for the years 1865 and 1866, five per cent. per annum for the years 1867 and 1868, and six per cent. per annum for such period thereafter as the said bonds may be made to extend.

May issue bonds to one-half am't of municipal and cemetery bonds.

SECTION 3. The mayor and common council of said city, are also hereby authorized to issue bonds of said city to an amount not exceeding one-half the amount of bonds and coupons now due, of bonds heretofore issued by said city, commonly known as municipal bonds, and cemetery bonds, the same to be in full discharge of said outstanding bonds and coupons of bonds, agreeably to the provisions of this act.

Denomination of bonds and rate of interest.

SECTION 4. The bonds authorized to be issued by the preceding sections, shall be for such amounts, not exceeding one thousand dollars each, as shall be found most convenient and practicable in carrying out the provisions of this act, and bearing interest semi-annually, with coupons of interest attached, at six per cent. per annum, from the first day of January, A. D. 1862.

Bonds to be deposited with state treasurer.

SECTION 5. All the bonds authorized to be issued by this act, as soon as executed, shall be deposited with the state treasurer, and shall be paid out and delivered by the state treasurer in the manner hereinafter provided; and if put in circulation in any other manner or for any other purpose, said bonds shall be void as against said city; and such bonds and the interest thereon shall be made payable at some place in the city of New York, at such time or times as the common council shall determine, not less than ten years from the passage of this act.

Where and when payable.

Commissioners—their duties.

SECTION 6. John Y. Smith, Samuel Marshall and George P. Delaplaine are hereby appointed commissioners to negotiate an exchange of the bonds authorized to be issued by this act, for the bonds heretofore issued by said city, and mentioned in the first and third sections, but not at a rate exceeding fifty cents on the dollar for principal and unpaid interest on the same, nor shall any interest be allowed in making such exchange on such bonds, after the 1st day of January, A. D. 1862. When any of said bonds shall have been surrendered to said commissioners, they shall give an order on the state treasurer for the delivery of such an amount of bonds as shall have been negotiated in such exchange, which shall be delivered by the state treasu-

rer from the bonds deposited with him, upon such order, signed by a majority of said commissioners.

Cancellation of old bonds.

SECTION 7. Upon the surrender of any bonds, the commissioners shall cancel and deliver the same to the mayor, who shall cause a description thereof to be entered on record by the city clerk, and shall burn the same in the presence of the common council.

Annual tax for interest, &c.

SECTION 8. At the time designated for that purpose, the common council of the city of Madison may, annually, levy such taxes for the current expenses of the city, and for the support of schools, as is authorized by law, and shall also levy an amount of taxes for interest upon bonds, sufficient to pay the interest for one year on the bonds issued under this act, and upon the bonds issued to aid in the enlargement of the state capitol, but shall levy no taxes for any other purpose whatever. All coupons that may be due upon any of the bonds mentioned in this section, shall be received in payment of any tax levied to pay the same, but for no other purpose.

When principal to be paid.

SECTION 9. In the year 1870, and annually thereafter, the common council of said city shall, in addition to the tax levied for the payment of interest on said bonds, levy and collect by tax a sufficient sum to pay off the entire principal, and discharge in full said bonds, by the time they shall become due; which tax shall be denominated the sinking fund tax. From time to time, when an amount shall accrue in the treasury, belonging to the sinking fund, sufficient to purchase one or more of the bonds issued under this act, it shall be applied to the purchase of said bonds, until they are all redeemed; and no money arising from the sinking fund tax shall be applied or appropriated for any other purpose whatever.

Application of the sinking fund

M. & W. R. R. bonds transferred by officers or agents since Jan. 1, 1858.

SECTION 10. If, in negotiating an exchange of any of the bonds issued to aid the Madison and Watertown railroad company, the commissioners shall be satisfied that such bonds are held or controlled by, or have been transferred since the first day of January, 1858, by any officer or agent of said railroad company, the said commissioners shall not give any of the bonds authorized to be issued by this act, in exchange for any such bonds so held, controlled or transferred.

Compensation of commissioners.

SECTION 11. The commissioners created by this act shall receive no compensation for their services, and if

CHAPTER 269.

any vacancy shall occur by death or refusal to act, the mayor shall appoint some other person to fill such vacancy.

Special tax to redeem lot on which city hall stands.

SECTION 12. The common council shall have full and ample power and authority, by a two-thirds vote thereof, to make such provision as they may deem proper and necessary to protect the lot on which the city hall stands, from being lost to the city or from sale under a certain mortgage now in process of foreclosure, which existed on said lot at the time of its purchase by the city; and for this purpose, may levy a spec al tax by a two-thirds vote as aforesaid.

Repeal.

SECTION 13. All acts and parts of acts relating to the city of Madison, contravening the provisions of this act, are hereby repealed. This act shall take effect and be in force from and after its passage and publication.

Approved April 13, 1861.

CHAPTER 269.

[*Published April* 22, 1861.]

AN ACT to repeal a portion of chapter 230, of the general laws of 1860, entitled "an act to remit to the county of Portage certain indebtedness to the state," and to authorize and direct the secretary of state and state treasurer to charge a sum of money therein named to the county of Portage.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Repeal.

SECTION 1. So much of section one of chapter 230 of the general laws of 1860, as directs the secretary of state and state treasurer to charge to the county of Wood the sum of one thousand three hundred and thirty-one dollars and seventy-five cents, and in which is credited said amount to Portage county, is hereby repealed.

$1331.75 to be re-charged Portage county and credited to Wood county.

SECTION 2. The secretary of state and state treasurer are hereby directed to recharge to the county of Portage the sum of one thousand three hundred and thirty-one dollars and seventy-five cents, which, by the direction contained in chapter 230 of the general

laws of 1860, was credited to the county of Portage and charged to the county of Wood; and the said secretary and treasurer are hereby directed to credit the said county of Wood with said sum.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1861.

CHAPTER 287.

[*Published April* 29, 1861.]

AN ACT to provide for laying out a state road in Brown and Kewaunee counties.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Commissioners.

SECTION 1. Joseph Heyrman, Michael Day and L. Hammond are hereby appointed commissioners to lay out and establish a state road, beginning at the east side of John Parent's farm in town 23, range 21, Brown county; thence to run on the most practicable route to the north-west corner of section 23, town 23, range 22; thence on the section line between sections 14 and 23, and through the two adjoining townships on the east, to the north-east corner of section 24, town 23, range 24, and thence on the most practicable route to the mouth of the Kewaunee river, in the state of Wisconsin.

Report of survey to be filed.

SECTION 2. Said commissioners shall, immediately after laying out said road, cause a report of their survey to be made and filed with the clerk of the board of supervisors of the county through which said road passes, and in all respects comply with the provisions of chapter nineteen of the revised statutes, so far as the same are applicable.

Compensation of commissioners.

SECTION 3. Such commissioners shall be entitled to only such compensation as the board of supervisors of the counties through which said road shall pass shall deem proper; and the same shall be paid by said counties respectively: *provided*, that no compensation shall

Proviso.

CHAPTER 290.

be allowed for laying out so much of said road as may lie upon any other road which may have been laid out at the time of laying out said state road.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 290.

[*Published April* 23, 1861.]

AN ACT to amend an act entitled "an act to amend an act entitled 'an act to incorporate the city of Milwaukee, and the several acts amendatory thereof,' approved February 20th, 1852, and to provide for a change in the election of street commissioners, the improvement and repair of streets, and the assessment of real and personal property in the city of Milwaukee," approved March 17th, 1859.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Street commissioners may order work on vacated plank roads.

SECTION 1. The fifth (5th) paragraph of the first section of "an act to amend an act entitled 'an act to incorporate the city of Milwaukee and the several acts amendatory thereof," approved February 20th, 1852, and to provide for a change in the election of street commissioners, the improvement and repair of streets, and the assessment of real and personal property in the city of Milwaukee," approved March 17th, 1859, is hereby amended by adding at the end of the same the following: "*and provided, further*, that work may be ordered by the street commissioners where part of a plank road which was formerly laid out and used as a public highway has been vacated, and the tract of land in which the same was located, has subsequently been laid out into lots and blocks on a petition of a majority of the resident owners of the block or blocks or tracts of land adjoining each end of such vacated part of a plank road, praying for the grading, paving, planking or graveling the street or streets intervening between both ends of said vacated part of a plank road."

SECTION 2. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 291.

[*Published April 23, 1861.*]

AN ACT to authorize the construction of water works in the city of Milwaukee.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Corporate powers.

SECTION 1. All such persons, not less than three, as shall become stockholders in the capital stock hereinafter mentioned, their successors and assigns, shall be and are hereby constituted and made a body politic and corporate, upon the terms and conditions hereinafter mentioned, and by the corporate name mentioned in the certificate to be filed as provided in the next succeeding section, shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatever, in all manner of actions, suits, complaints, matters and causes whatsoever; may have a common seal, and may alter the same at pleasure, and by the same name shall be capable of purchasing, holding and conveying any estate, real, personal or mixed, for the use and benefit of said corporation.

Certificate of stockholders to be filed—what to specify.

SECTION 2. Before the persons mentioned in the preceding section shall exercise any of the corporate powers herein conferred, the stockholders mentioned in said section shall make and subscribe a certificate in writing, and shall file the same in the office of the clerk of the circuit court of the county of Milwaukee. Such certificate shall specify: 1st. The name assumed by such company, by which it shall be known. 2d. The amount of its capital. 3d. It shall state their purpose to be to supply the city of Milwaukee with water; and upon filing such certificate, the persons subscribing the same may exercise all the corporate powers and privileges conferred, and shall be subject to all the liabilities imposed by this act.

Capital stock, shares, &c.

SECTION 3. The capital stock of said corporation shall not be more than six hundred thousand dollars, and shall be divided into shares of one hundred dollars each, and shall be deemed personal property, and may be transferred in such manner as the by-laws of such company shall direct.

CHAPTER 291.

Rights of company.

SECTION 4. The company organized under this act, after they shall have obtained the consent of the common council of the city of Milwaukee, shall have the right to construct water works, to supply said city with water, and shall have the right to construct all suitable works and apparatus, and lay pipes for the purpose of conducting water in any of the streets, highways, avenues and alleys of said city: *provided*, that no unnecessary injury shall be done to such street, highway, avenue or alley.

Proviso.

Board of directors—how elected

SECTION 5. The property and the affairs of said company shall be managed and conducted by a board of not less than three nor more than seven directors, who shall be elected annually, and who shall be respectively stockholders in said corporation, and who shall be elected by the stockholders at such time and place as shall be directed by the by-laws of the corporation, each share of stock being entitled to one vote, which may be cast by the holder thereof or by proxy duly authorized. All such elections shall be by ballot, and the person receiving the majority of votes cast shall be directors, and when any vacancy shall happen from any cause, it shall be filled for the remainder of the year in such manner as shall be provided for by the by-laws of such corporation. The number of directors, and how many shall constitute a quorum for the transaction of business, shall be determined by said by-laws.

President.

SECTION 6. The directors shall annually, after their election, elect one of their number president, whose duty it shall be to preside in their meetings, and in case of his absence at any meeting, the directors present may elect a president *pro tem.* The directors shall

By-laws, &c.

have power to make and prescribe such by-laws, rules and regulations, respecting the management of the property, concerns, business and stock of such corporation, as they may deem expedient and proper. All

Meetings.

meetings for the transaction of business for the corporation, shall be held at their office, which shall be located in the said city, and the manner and time of calling meetings shall be prescribed by the by-laws of said company. The directors shall have power to ap-

Treasurer, secretary, &c.

point a treasurer and secretary and such other officers as may be required by the business of said company, and may remove the same at pleasure, and fix the compensation and define the duties of all officers. They

shall have power to determine the time, manner and proportions in which the stockholders shall pay the money due, or an equivalent therefor, from their respective shares, and to make such rules respecting the forfeiture of stock and shares as they may deem advisable. They shall also have power to appoint a time certain each year for the election of directors; but such elections shall always be held at the office of said company, upon notice to the stockholders of not less than thirty days before such election, published in one newspaper in the said city: *provided*, that if for any cause such election shall not be held at the time appointed, the same may be held at any future time upon a like notice being given to the stockholders, and the directors of the preceding year shall in all cases continue in office until the election of their successors.

Annual election of directors.

Proviso.

SECTION 7. The said corporation may increase its capital stock and the number of shares therein, at any meeting of the stockholders especially called for that purpose: *provided*, that the amount as increased shall not exceed the amount authorized by the provisions of this act.

Increase of capital stock.

Proviso.

SECTION 8. The said corporation shall be authorized, for the purpose of procuring and conducting the water necessary for the purposes for which they are organized, to construct any dam, aqueduct, embankment, tunnel or reservoir, and to lay down water pipes.

May construct dams, &c.

SECTION 9. It shall and may be lawful for the said company, their officers, engineers and agents to enter upon any lands for the purpose of exploring, surveying and locating any such dam, aqueduct, embankment, tunnel, reservoir or water pipe, doing thereto no unnecessary damage; and when the location of any such work shall be determined upon by the said company, it shall be lawful for them, their agents, officers, engineers, contractors and servants at any time to enter upon, take possession of and use such lands, not exceeding four rods in width on either side of any such dam, aqueduct, embankment, tunnel, or water pipes, subject, however, (whenever such lands are not streets, highways, avenues or alleys,) to the payment of such compensation as the company may have agreed to pay therefor, or which shall be ascertained in the manner hereinafter directed and provided.

May enter upon lands for certain purposes.

Damages to be paid.

CHAPTER 291.

Judge may appoint commissioners to appraise damages.

SECTION 10. When the said corporation cannot agree with the owner or owners of such required land for the purchase thereof, or for the damages sustained by said owner or owners thereof, or as to the compensation to be paid to the owner or owners of any land taken for the purpose aforesaid, or when by reason of the legal incapacity or absence of any such owner or owners, no such agreement or purchase can be made, then and in any such case it shall be lawful for the judge of the circuit or county court of the county in which such lands are situated, on application of either party and at the charge of such corporation, to appoint three disinterested persons residing in said county, whose duty it shall be to view and examine or survey said lands, with the buildings and improvements thereon, if any, and estimate the value of the land so taken or required by the said company, and all damages which the owner or owners thereof shall sustain or may have sustained by reason of the taking of the same for the construction and use of such water works, or works appertaining thereto, taking into consideration the advantages or disadvantages of the same to the said owner or owners; and the persons so appointed, before entering upon the discharge of their duties,

Commissioners to take an oath.

shall take an oath before some justice of the peace, or other person competent to administer oaths, faithfully and according to the best of their abilities to examine the land so taken or required by said company, and impartially to examine and appraise the value of the same, and the damages or injuries which the owner or owners thereof shall have sustained or may sustain by reason of the taking and using thereof by the said company, over and above all benefits and advantages which such owner or owners shall derive from the construction of such water works; whereupon such commissioners shall proceed to examine the premises and estimate the value of such land and the amount of damages, if any, over and above the benefits and advantages which may accrue to such owner or owners

Report to be made and filed.

as aforesaid, and shall make a report of such valuation in writing, under their hands and seals, to said judge, and shall return the same within thirty days after their appointment, to the clerk of the circuit court of the county in which they reside, and it shall be the duty of the said clerk to file the same; and in case no ap-

peal shall be made within thirty days after the filing of said report as hereinafter provided, then the said clerk shall record the same at the expense of the said company, and judgment of the said court shall be entered thereon, on motion of either party, at any term of said court: *provided*, that either party may appeal to said court within thirty days after said report shall have been filed in the clerk's office, and such appeal shall be tried in said court, and the jury empanneled to try the same shall find the value of the land so taken or required by said company, and the damages which the owner or owners thereof shall have sustained or may sustain by taking the same, over and above the benefits which will accrue to such owner or owners from the construction of such water works; and judgment of court shall be entered accordingly: *provided*, *also*, that it shall not be lawful for the said commissioners, or the said court, to proceed in the assessment of damages or in the valuation of any lands in the absence of the owner or owners thereof, or of his, her or their agents or attorney, unless it shall be shown to them, by competent testimony, that the said owner or owners have had at least five days' notice of the time and place at which such assessment or valuation was to be made, or that the said owner or owners are absent from the state of Wisconsin; and that if the said owner or owners shall be minors or *non compos mentis*, or absent from the state, the service of notice may be made on their guardians or trustees, if any there be, or in such manner as the said court may direct.

Entering judgment.

Appeals—how tried, &c

When damages may be assessed in absence of owners of lands.

SECTION 11. If any person shall negligently, knowingly or willfully do or cause to be done, any acts whatsoever to injure any machine, pipe or structure, or anything appertaining to the works of such corporation, whereby the same may be stopped, obstructed or injured, the person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a time not exceeding one year, or both by fine and imprisonment: *provided*, that such criminal prosecution shall not in any way impair the right of such company for damages by civil action to be brought for any such injury aforesaid, by and in the name of said corpora-

Penalty for injury to machines, pipes, &c.

Civil action for damages.

CHAPTER 291.

tion, in any court of the state having competent jurisdiction of the same.

Corporation may borrow money, execute notes, bonds, &c.

SECTION 12. The said corporation is hereby authorized and empowered in its corporate capacity to borrow any sum or sums of money from any person or persons, corporation or body politic of any kind, and make and execute, in their corporate name, all necessary notes, bonds, writings or other papers, and make, execute and deliver such securities by way of mortgage or otherwise, in amount and kind as may be deemed expedient by such corporation, for all purposes in carrying out the objects of such company; and the official acts of such company are hereby declared binding in law and equity upon such corporation and upon all other parties to such contract.

Powers of common council.

SECTION 13. The common council of the city of Milwaukee may by ordinance approve of the organization made under this act for the purpose of supplying said city with water, and may grant to such company the use of all streets, highways, avenues and alleys, and may further agree with said company on the amount to be paid to them for water for the corporate use of said city, and the purposes to which water paid for by [said] city shall be applied; and may also agree with said company upon the rates to be charged for the supplies of water to the inhabitants of said city, and also upon the terms and conditions upon which said rates may be levied upon property in said city, or any part thereof, for water rates, for water furnished to and used by private persons: *provided*, that such power shall not be so exercised as to violate any provision of the constitution; and all agreements and ordinances entered into and passed in pursuance of this act, shall have the force of law, but shall not in any wise empower the common council to levy or collect any tax or contract any debt whatever, for the purpose of constructing said water works, or introducing the same into any part of said city other than for the consumption of water so furnished.

Proviso.

SECTION 14. This act shall be published immediately, and shall take effect from and after its publication; and all acts and parts of acts conflicting herewith, are hereby repealed.

Approved April 15, 1861.

CHAPTER 292.

[*Published April* 25, 1861.]

AN ACT to amend an act entitled "an act to consolidate and amend the act to incorporate the city of Milwaukee, and the several acts amendatory thereof," approved February 20, 1852, and also to amend certain amendments to the foregoing entitled act, approved on the 27th March, A. D. 1858, and also approved March 17th, 1859.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Ordinances, &c., vetoed by the mayor.

SECTION 1. Strike out the whole of section 47 of the amendments to said charter of the city of Milwaukee, approved March 27th, 1858, and insert the following words: "Any ordinance, resolution or appropriation which shall have been duly passed by the common council, shall be in force, unless disapproved by the mayor, who shall state his objections thereto in writing, to the board in which such ordinance, resolution or appropriation may have originated, at its next regular or stated meeting. Such board shall thereupon reconsider the vote passing such ordinance, resolution or appropriation; and if, after such reconsideration, two-thirds of all the members elected to such board shall vote for the passage of such ordinance, resolution or appropriation, the same shall be certified by the clerk to the other board; and if two-thirds of all the members elected to such board, after reconsideration, shall vote for the passage of such ordinance, resolution or appropriation, the same shall be in force, otherwise it shall be null and void. All such votes on the passage of any such ordinance, resolution or appropriation after the objections of the mayor are read, shall be taken by yeas and nays, and entered upon the journals of the respective boards."

Street improvements, &c.

SECTION 2. When a petition is presented to the common council for any improvements on streets, as provided in section 5 of the amendments to the city charter of Milwaukee, approved March 17, 1859, it shall be referred to the street commissioners of the proper ward, who shall proceed, if such petition is signed pursuant to law, to make an assessment of the damages and benefits to the owners of property on the

CHAPTER 294.

line of the street or streets mentioned in such petition, and also make and sign an order or resolution, that the work asked for shall be done by the said owners within a reasonable time, limiting the time, and cause such order to be published six times successively in the official papers of the city. The commissioners shall thereupon make report of their doings to the common council, and if no appeal is taken from such assessment or order, and the parties interested shall fail to make the whole or any part of such improvements within the time limited, then the city comptroller shall advertise for bids and the contract be let for the unfinished portions of such work, as provided by law.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved April 15, 1861.

CHAPTER 294.

[*Published April* 27, 1861.]

AN ACT to authorize and enable the county of Fond du Lac to aid in the completion of a railroad from Glenbeulah, in Sheboygan county, to the cities of Fond du Lac and Ripon, by the levy and collection of a special tax.

To the People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Company referred to.

SECTION 1. It is hereby provided that if the Sheboygan and Mississippi railroad company, its successors or assigns, or any other legally constituted railroad company, by virtue of the charter of the S. & M. R. R. company, or by any law of this state, shall, under the conditions of said charter, its obligations and authorities, complete the railroad from Glenbeulah to the city of Fond du Lac or to Ripon, as the case may be, or any railroad company completing and owning the road from Sheboygan to Fond du Lac or to Ripon, [such company] shall be the company referred to in the provisions of this act, by whatever corporate name they may be known.

Special contract for transportation of wheat and flour.

SECTION 2. In order to give legal force to this act, and secure under its provisions to the consumers, producers, tax-payers, and residents of Fond du Lac county, a remunerative and valuable consideration from

the railroad company completing and owning said road, for the benefits to be secured to said company by this act, it is hereby provided, that in case the railroad company accepts and receives the provisions of this act, they, their successors or assigns, shall, in consideration thereof, be legally and firmly bound under a special contract for the term of ten years, to furnish cars and transport wheat by the car load from the city of Fond du Lac, and from stations east thereof in Fond du Lac county, to the city of Sheboygan, at a price not exceeding five cents per bushel; and from stations west of the city of Fond du Lac to Sheyboygan, at a price not to exceed that *pro rata* tariff; and flour shall be carried on equal terms of freight. This rate of tariff shall apply to all those towns and stations on all other roads where this said railroad company shall, by agreement, contract, or by virtue of their charter, hold and exercise the right to run their cars.

Election for adoption of this act.

SECTION 3. It shall be the duty of the clerk of the board of supervisors, or of the sheriff of the county of Fond du Lac, to call an election in said county for the purpose of voting upon the adoption of this act, whenever a petition signed by one hundred freeholders of said county shall be presented to either the said clerk or sheriff, asking for the same. The clerk of the board of supervisors or the sheriff of said county, shall give at least three weeks' notice of the time and places of holding said election, by publishing the same in two or more newspapers printed and published in said county, and this act shall be published in connection with said notice. At said election all persons voting for the adoption of the act, shall deposit a ballot containing the words, "for railroad aid tax," and those persons voting against the same, shall deposit a ballot containing the words, "against railroad aid tax." Said election shall be conducted, and the votes canvassed and the returns thereof made in the same manner as an election for county officers in said county.

Notice of election

Form of ballots.

How election conducted, &c.

If result of election be in favor of the proposition, county board to levy tax

SECTION 4. It shall be the duty of the clerk of the board of supervisors of Fond du Lac county, to report to the said board at its first meeting succeeding the said election, the result thereof; and if it shall be found from such result that a majority of the votes polled in the county at such election were "for railroad aid tax," then the board of supervisors of said county shall be

CHAPTER 294.

required, and by this act are empowered and directed. to levy and authorize the collection of a tax of not less than two (2) nor more than four (4) mills on the dollar, upon the equalized value of the taxable property of said county of Fond du Lac, at each and every annual session after said election, until the amount so authorized to be levied and collected shall have in the aggregate yielded to the county treasurer [treasury] the net sum of one hundred thousand dollars; and in each and every year of the levy of such tax, it shall be added to and apportioned as part of the county tax of said county; and all provisions of law relating to and governing the collection of the county taxes, shall apply to the tax hereby authorized, except that the fees to the several town treasurers for collecting the tax aforesaid, shall not exceed one per cent. on the amount so collected by them in pursuance of the provisions of this act.

Assent of county to the issuing of county orders.

SECTION 5. It shall be the duty of the supervisors and alderman, [aldermen,] members of the county board of Fond du Lac county, upon proof or knowledge of the completion of said railroad so as to permit the running of passenger and freight cars for business, from the city of Sheboygan to the city of Fond du Lac, and they are hereby required, upon application therefor by any legally authorized agent or representative of the railroad company so completing said road, to give a written assent to the issue of county orders to the amount of one hundred thousand dollars, on account of "railroad aid tax;" and when the same shall have been filed with the clerk of said board, it shall be the duty of said clerk to draw orders in amount as hereinbefore provided, and upon the face of all such orders, the words, "on account of railroad aid tax," shall be inscribed, and such orders shall be drawn and made payable to the order of the treasurer, trustee or assignee of the company so completing said road; and when said orders are so drawn, it shall be the duty of the chairman and clerk of said board to sign and countersign said orders so drawn, for an amount or amounts not exceeding the sum of fifty thousand dollars, to the company completing and owning the road between the cities of Sheboygan and Fond du Lac, with interest from and after the time said road shall have been finished as before described, at which time this amount shall become due, and not before. And said sum of

$50,000 of said orders to be drawn in favor of the company on completion of road to Fond du Lac.

fifty thousand dollars and interest so to be paid, shall be so paid as a consideration to the railroad company for such completion of the road, and to secure and bind said railroad company to a contract on the freight tariff provided for in the second section of this act.

$50,000 to be paid on grading and bridging road to Ripon.

SECTION 6. And it is further provided, that fifty thousand dollars, part of the one hundred thousand dollars aforesaid, shall be appropriated and paid to any legally constituted railroad company, which shall have a majority of its directors in the city and town of Ripon and Rosendale, to be by such company appropriated and used in aid of and to pay for the grading and bridging of a railroad from Fond du Lac to Ripon, in Fond du Lac county: one-third of said fifty thousand dollars to be paid to the said railroad company, by the treasurer of said county, when one-third of the distance shall have been graded and bridged between Fond du Lac and Ripon, another third to be paid when two-thirds of the distance is graded and bridged, and the residue thereof to be paid when the said railroad is graded and bridged to the city of Ripon: *provided*, that no such issue of orders shall be made in advance of the levy of the first tax for the purposes hereby authorized; and in this manner shall the said one hundred thousand dollars be appropriated, divided and paid.

Proviso.

Orders to be paid by county treasurer.

SECTION 7. The treasurer of Fond du Lac county is hereby authorized and required to pay all orders so drawn and issued as provided in the foregoing section, to the parties in whose favor they are drawn; and the said treasurer shall receive as compensation in full, one per cent. on the amount of money which he may receive and pay out according to the provisions of this act.

When county treasurer to indorse orders.

SECTION 8. It shall be the duty of the treasurer of said county, and he is hereby authorized and required, to endorse all orders issued as above which he is not able to pay when presented; and he shall keep an accurate account of the same, and furnish to said county board at their annual sessions, the amount of all outstanding orders.

Orders receivable for taxes.

SECTION 9. All orders issued as above provided, and so endorsed by the county treasurer, shall after such endorsement be receivable in payment of the taxes levied in said county.

CHAPTER 294.

Blank orders.

SECTION 10. The said board of supervisors of Fond du Lac county shall furnish to the clerk of said county, the blanks necessary for the issue of said orders.

Excess of tax to be returned to the towns, &c.

SECTION 11. Any excess of tax hereby authorized over the amount of orders issued, including any and all interest which may have accrued thereon, shall be returned by said board of supervisors to the treasurers of the several towns to which the *pro rata* excess of funds or taxes belong in said county, and all of said taxes hereby authorized shall be subject to such disposition by said board, if said railroad is not completed to the city of Fond du Lac by or before the 1st of January, A. D. 1864.

Bonds to be executed by county board.

SECTION 12. When it shall be ascertained as provided in section 4th [four] of this act, that a majority of the votes deposited at said election in said county, have been "for railroad aid tax," the said board of supervisors shall, at the same session, make and execute a bond to be signed by the treasurer of said county, and countersigned by the chairman and clerk of said board, for fifty thousand dollars, payable to the Sheboygan and Mississippi railroad company or its successors or assigns, the company who finish and own the road from the city of Sheboygan to the city of Fond du Lac, therein conditioned for the faithful performance on the part of said county and its officers, of all the duties required by this act, in the assessment, levying and collection of the taxes aforesaid, and the payment of the orders aforesaid, and in default of the same, that said county will well and truly pay to said railroad company, its successors or assigns, said sum of fifty thousand dollars upon the completion of said railroad to the city of Fond du Lac; and the said board of supervisors at the same session shall in like manner make and execute another similar bond of fifty thousand dollars, with the conditions described in this act, and payable, in default of the same, to said S. & M. R. R. company, or its successors or assigns, to aid in completing a railroad from Fond du Lac to Ripon; and said bond shall be deposited by said county board with the treasurer of said county in trust for said railroad company, its successors or assigns, and the said treasurer shall give his official receipt for said bonds, with a certified copy of them to the treasurer, trustee or assignee of said railroad company, conditioning to

deliver said bonds to said company, its successors or assigns, upon the completion of said railroad to the city of Fond du Lac.

Public act.

SECTION 13. This act is hereby declared to be a public act, for all purposes of notice of the contract of freight hereinbefore provided, to any company, its successors or assigns, person or persons, or body corporate, who may have, or may hereafter acquire, possess or enjoy the franchises of the Sheboygann & M. R. R. Co., or any part thereof, or who may build, or may thereafter own, occupy or enjoy the railway so built, or to be built, from Sheboygan to Fond du Lac or to Ripon as aforesaid, or any part thereof.

SECTION 14. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 295.

[*Published April* 30, 1861.]

AN ACT to amend and consolidate chapter 49 of the private laws of 1855, entitled "an act to incorporato the village of Madison into a separate school district," and all the acts amendatory thereof.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

City to constitute a separate school district.

SECTION 1. So much of the county of Dane, as is or may hereafter be included within the corporate limits of the city of Madison, is hereby declared to be a separate school district, the government of which shall be as hereinafter provided.

Annual appointment of two members of the board of education.

SECTION 2. On the first day of December next, or within ten days thereof, and annually thereafter, the common council of the city of Madison shall elect two members of the board of education, whose term of office shall commence on the first day of January next ensuing, and continue for the term of three years, and until their successors are elected.

Notification—oath.

SECTION 3. The persons elected in accordance with the preceding section, shall be notified thereof by the city clerk within three days after their election, and

CHAPTER 295.

within twenty days after their election, they shall take the oath prescribed by the constitution of this state, and file the same with the city clerk.

Election of officers.

SECTION 4. On the first day of January, or within ten days thereof, and annually thereafter, the board of education shall elect by ballot, from their own body, a president, treasurer and clerk, and at the same time, and every two years thereafter, the board shall elect by ballot a superintendent of schools, who shall be a resident of said school district, and shall hold his office for the term of two years. The president, treasurer and clerk, shall each hold his office for the term of one year, and until his successor is elected and qualified.

Term of office.

Vacancies—how filled.

SECTION 5. Whenever any vacancy shall occur in the board of education, the clerk shall notify the common council, who shall thereupon elect a person to fill such vacancy.

Powers of board.

SECTION 6. The board shall have power to remove from office the superintendent, clerk or treasurer, for official misconduct or negligence, by a vote of two-thirds of its members, excluding the vote of the party on trial; but no member shall be so removed without due notice, and a full and impartial hearing.

Board to be a body corporate.

SECTION 7. Said board shall be a body corporate, by the name of "the board of education of the city of Madison," in relation to all powers and duties conferred upon them by virtue of this act, as well also as those conferred by any law of the state relating to common schools. A majority of the same shall constitute a quorum. Said board shall at each annual meeting decide what compensation shall be allowed their superintendent, treasurer and clerk, for the ensuing year, and also decide the amount of the security it shall be the duty of the treasurer to give, prior to entering upon the duties of this office.

Compensation of officers, &c.

Clerk—his duties.

SECTION 8. The clerk shall keep a record of the proceedings of said board, and all the records and papers belonging thereto, which records, or a transcript thereof, certified by the president and clerk, shall be received in all courts as *prima facie* evidence of the facts therein set forth; and such record and all the books and accounts of said board shall be always subject to the proper inspection of any elector of said city; and the said books, records and accounts, shall be the property of said board and their successors in

office. Between the first and fifteenth days of July in each year, the clerk shall cause to be taken a census of all children residing in said district between the ages of four and twenty years, and report the same to the state superintendent of public instruction, as provided by section thirty of chapter twenty-three of the revised statutes, and he shall perform such other duties as the board may prescribe. He shall also have power and authority to administer oaths and affirmations.

Expenses of schools.

SECTION 9. At the time and in the manner provided by the city charter, the common council shall levy the amount of money required for the current and contingent expenses of the common schools of the city, not exceeding six thousand dollars in any one year. The common council may also levy a special tax, not exceeding four thousand dollars in any one year, for any or all the following purposes: 1st. To purchase, lease or improve sites for school houses; 2d. To build, purchase, lease, enlarge, alter, improve and repair school houses and their appurtenances; 3d. To pay any interest which may be due, or coming due on any of said purchases, alterations, building or repairs; whenever that sum or any portion thereof may be determined upon and certified to them by the said board of education, to be necessary for building purposes. And no such special tax shall be used or applied for any other purpose whatever. No city order of any kind shall be received in payment of school or school house tax, but the same shall be paid in money, or in the orders of the board of education, and shall be paid over by the city treasurer to the treasurer of said board, upon the order of the president and the clerk thereof.

Special tax.

Application.

School tax payable in money only.

All moneys to be paid to treasurer &c.

SECTION 10. All moneys to be raised pursuant to the provisions of this act, and all school moneys, by law appropriated to or provided for said city, shall be paid to the treasurer of said board, who shall give his receipt therefor to the proper officer, and who, together with the sureties upon his bond as treasurer, shall be accountable therefor, in the same manner as the treasurer of said city is liable for moneys coming into his hands as treasurer; and the said treasurer shall also be liable to the same penalties for any official misconduct in relation to the said money, as is the treasurer of said city.

CHAPTER 295.

Treasurer may be prosecuted.

SECTION 11. The said board of education may cause a suit or suits to be prosecuted in their own name upon the official bond of their treasurer, for any default, delinquency or official misconduct, in relation to the collection, safe keeping or payment of any money mentioned in this act.

Power of board.

SECTION 12. The said board shall have the power, and it shall be their duty:

Establish schools.

1st. To establish and organize such and so many schools, in different parts of the city, as they shall deem requisite and expedient, and to allow and discontinue the same.

Purchase sites, &c.

2d. To purchase or hire school houses and rooms, and lots and sites for school houses, and to fence and improve them as they may deem proper.

Build school houses, &c.

3d. Upon such lots, and upon any sites now owned by said city, to build, enlarge, alter, improve and repair school houses, out-houses and appurtenances, as they may deem advisable.

Books, &c.

4th. To purchase, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages, and to provide fuel for the schools, and to defray their contingent expenses, and the expense of the library.

Custody of school houses, &c.

5th. To have the custody and safe keeping of the school houses, out-houses, books, furniture and appendages, and to see that the ordinances of the city in relation thereto are observed.

Hire teachers &c.

6th. To contract with all teachers for said district, from the number of those who shall have been licensed as herein provided, and at their pleasure to remove them.

Pay teachers, &c.

7th. To pay the wages of such teachers out of the school money which shall be provided for said city, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised for that purpose by section eleven of this act, by tax upon the city.

Expenses of board.

8th. To defray the necessary contingent expenses of the board, including the salary of the clerk, treasurer and superintendent.

General superintendence of schools, &c.

9th. To have in all respects the superintendence, supervision and management of the common schools in said city, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for the organization, government, instruction and reception of pupils, and their transfer

from one school to another, and, generally, for the promotion of their good order, propriety and public utility: *provided, however*, that they shall have no power to exclude the child of any resident of said city for any cause except immorality, or on the ground of health. Proviso.

10th. To sell, whenever in the opinion of the board it may be advisable, any of the school houses, lots or sites, or any of the school property, now or hereafter belonging to the district. Sell school houses, &c.

11th. To prepare and report to the common council such ordinances and regulations as may be necessary or proper for the protection, safe keeping, care and preservation of school houses, lots and sites and appurtenances, and all the property belonging to the district connected with or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations, and annually, on or before the first day of July, to determine and certify to said common council, the sums in their opinion required or proper to be raised under the ninth section of this act. The school established or maintained under the provisions of this act, shall be free and without charge to all the children between the ages of six and twenty years, residing in the district, subject to such reasonable and proper classification as the board may order. Report ordinances, &c. School to be free.

SECTION 13. Said board of education shall have power to allow the children of persons not resident within the city, to attend any of the schools in said city, upon such terms as said board shall by resolution prescribe. Non-resident children.

SECTION 14. The said board of education shall be trustees of the district library in said city, and all the provisions of law, which now are or hereafter may be passed, relating to district school libraries, shall apply to the said board in the same manner as if they were trustees of an ordinary school district. They shall also be vested with the discretion, as to the disposition of the money appropriated by any law of the state for the purchase of libraries, which is therein conferred upon the inhabitants of school districts. It shall be their duty, whenever they shall deem it advisable, to provide a library room and all the necessary furniture therefor, to appoint a librarian, to make all purchases of books for the said library, and from time to time to District school library, &c.

exchange, or cause to be repaired, the damaged books belonging thereto. They may also sell any books they may deem useless or of an improper character, and apply the proceeds to the purchase of other books.

Annual report.

SECTION 15. It shall be the duty of the said board in the month of January of each year, to publish a full report of their doings for the preceding year.

Subject to rules of state superintendent.

SECTION 16. The said board shall be subject to the rules and regulations which have been or may be made by the state superintendent of schools, so far as the same may be applicable to them, and not inconsistent with the provisions of this act.

Teachers having no certificates.

SECTION 17. The said board shall have power to employ teachers without any certificate of qualification from the town or county superintendent.

Common council to pass such ordinances, &c. as the board may report.

SECTION 18. The common council of the city of Madison shall have the power, and it shall be their duty, to pass such ordinances and regulations as the board of education may report as necessary and proper for the protection, safe keeping, care and preservation of the school houses, lots, sites and appurtenances, and all the property belonging to or connected with the schools in said city, and to impose proper penalties for the violation thereof, subject to the restrictions and limitations contained in the act of incorporation of said city; and all such penalties shall be collected in the same manner in which the penalties for a violation of the city ordinances are by law collected, and when collected shall be paid to the treasurer of the city, and be subject to the order of the board of education, in the same manner as other money raised pursuant to the provisions of this act.

Collection of penalties.

School houses, &c. not subject to taxation.

SECTION 19. The title of the school houses, sites, lots, furniture, books, apparatus, appurtenances and all other property in this act mentioned, shall be vested in the said board, and the same while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, not [nor] be subject to taxation for any purpose whatever. And the said board in its corporate capacity, shall be able to take, hold and dispose of any real or personal estate transferred to it by gift, grant, bequest or devise, for the use of the common schools of the said city.

All moneys paid treasurer subject to orders of board.

SECTION 20. Whenever any of the school property of said district shall be sold by said board, the pro-

ceeds shall be paid to their treasurer, and shall be subject to their order, to be expended by them for the use of said district; and all moneys to which the said district may be entitled, shall in like manner be paid over by the proper officer to the treasurer of the board on his presenting an order therefor, signed by the president and clerk of the board, and the same shall be disbursed by him to persons who may present similar orders from said board to him.

Union school.

SECTION 21. It shall be the duty of the said board of education, and they shall have the power, to procure a site, and cause to be erected thereon a suitable edifice for a union school, and cause a statement of the probable cost of said site and building to be laid before the mayor and common council of said city, who shall have the power, and it shall be their duty, to levy a tax at the time and in the manner provided by the city charter, or to borrow a sum of money not exceeding ten thousand dollars, for the payment of any amount or amounts contracted to be paid by said board of education, for the erection of said high school edifice, and to execute bonds therefor under the common seal of said city, and the signatures of the mayor and clerk thereof. The loan of the sum hereby authorized shall be for a term of not less than ten years, and the interest thereon shall be paid annually; and the said common council are hereby authorized, and it shall be their duty, to raise by tax, in manner as specified in the ninth section of this act, the annual interest of the above mentioned loan, and to pay over the same in discharge of such interest, and also to raise, by [levy] and collect in the same manner, any sum or sums necessary to meet the conditions of said law, and to pay over the same in discharge thereof.

Application of laws.

SECTION 22. The provisions of the laws of this state relative to common schools, and which are not inconsistent with this act, shall apply to the district hereby established, but the town superintendent shall not have power to alter the limits of said district.

Duty of city treasurer.

SECTION 23. Whenever any money, orders or tax certificates shall be delivered to the city of Madison by the county of Dane, in payment of the taxes returned on the city delinquent list, it shall be the duty of the city treasurer to pay over that proportion of each of the money, orders or tax certificates so re-

CHAPTER 296.

ceived, which may be due the board of education, to the treasurer of said board.

Repeal.

SECTION 24. All acts or portions of acts inconsistent with the provisions of this act, are hereby repealed.

SECTION 25. This act shall take effect and be in force from and after its passage.

Approved April 13, 1861.

CHAPTER 296.

[*Published April* 29, 1861.]

AN ACT to consolidate and amend the act to incorporate the village of Waterloo, and the several acts amendatory thereof.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Territory of village of Waterloo

SECTION 1. All that section of country included in the south-west quarter of section five, in town eight, north of range thirteen east, in the town of Waterloo, county of Jefferson, and state of Wisconsin, and the south-east quarter of section six, in said town, and the north-east quarter of section seven, in said town, and the north-west quarter of section eight, in said town, shall hereafter be known and distinguished as the village of Waterloo, and by that name they and their successors forever hereafter may have perpetual succession, and shall be a person in law capable of contracting and being contracted with, and of suing and being sued in all courts and places.

Style.

Elective officers.

SECTION 2. The elective officers of said village shall be a president, who shall be *ex officio* a trustee, four trustees, one assessor, a clerk, a treasurer, a marshal, a superintendent of schools, and two justices of the peace.

Annual election.

SECTION 3. On the first Tuesday of April in each year, there shall be an annual election of the officers of said village, and the clerk shall give at least one week's notice of the time and place of holding the same, and the trustees, or any three of them, shall be inspectors of such elections. All officers shall be elected by ballot, as the law provides for the election of officers of towns.

Eligibility of officers.

SECTION 4. No person shall be eligible to any of said offices, unless he shall be a voter in said village. Any person qualified to vote at any general election, shall be a legal voter at any election of officers for said village.

Polls—how long to continue open

SECTION 5. At any election under this act, the polls shall be open at ten o'clock A. M. and continue open not less than four hours, nor more than seven hours, during said day; and a plurality of votes shall in all cases decide the election.

Terms of office of officers.

SECTION 6. All of said officers shall hold their offices until the first Tuesday of April next after their election, and until others are elected and qualified in their stead, respectively, except the justices of the peace, who shall hold their office two years from the said first Tuesday of April, and until successors shall be elected and qualified in their stead.

Vacancies—how filled.

SECTION 7. Any vacancy in the office of president, trustee or justice of the peace, shall be filled by special election, and any vacancy in any other of the said offices, shall be filled by appointment by the board of trustees, a majority of which shall meet for that purpose, and any person appointed or elected to fill a vacancy, shall hold his office during the unexpired portion of the term, and until others shall be elected and qualified in their stead.

Certificates of election to be filed.

SECTION 8. In all cases of an election or appointment of any person or persons to office, the board of trustees shall file with the clerk a certificate signed by a majority of the board, and attested by the president, specifying the name of the person or persons elected or appointed, and the time of such election or appointment, and when the term of office of each will expire.

Resignations.

SECTION 9. The president may accept the written resignation of any of said officers for good cause specified in said resignation, and when accepted, he shall file with the clerk said resignation, with his acceptance endorsed thereon, and the president for similar cause and in like manner may resign to the clerk; and in case of a vacancy in any or either of said offices, the clerk shall immediately notify the president in writing thereof, specifying in said notice the office so vacated, the name of the last incumbent, and the unexpired portion of the term, which notice shall be

CHAPTER 296.

laid before the board of trustees at their next meeting, and a copy thereof filed with the clerk.

Clerk to notify clerk of county board of election of certain officers

SECTION 10. On the election of every justice of the peace in said village being certified to, the clerk shall immediately give notice thereof to the clerk of the circuit court of Jefferson county, specifying the name of said justice, and the time for which he is elected, and if elected to fill a vacancy, the name of the last incumbent; and in case of any election or appointment of president, superintendent of schools and treasurer in the said village, the clerk shall immediately give like notice to the clerk of the board of supervisors of the said county of Jefferson, which said notice the clerk of the board of supervisors shall file in his office. And it is hereby provided and expressly declared, that all the territory situated within said corporation shall hereafter be distinct and separate for all purposes whatsoever, from the said town of *Waterloo*; and the said board of trustees are hereby authorized to open a poll in said village at any general or special election for county or state officers, and the qualified electors of said village may vote at said poll at any such election, for all officers to be elected.

Village separate and distinct from town.

Elections—duty of sheriff.

SECTION 11. The sheriff of the said county of Jefferson is hereby required to serve on the clerk of said village a notice of every such election, in like manner as he is now required to serve notice of elections on town clerks; and the said board of trustees shall be inspectors of every such election, and shall have the same powers and be subject to the same requirements and laws in the proceedings and returns, as the inspectors of such elections in the several towns.

President.

SECTION 12. The president shall be chairman of the board of trustees at each and every meeting thereof, and if he shall be absent at the time of any election held in pursuance of this act, such one of their number as the inspectors shall apppoint, shall be chairman of said board, and if absent at any other meeting, a majority of the trustees may elect one of their number chairman *pro tem.*

Clerk—his duties and compensation.

SECTION 13. The clerk shall attend the meetings of the board of trustees and keep a record of the proceedings of said board, and of all the votes of the inhabitants at any annual or special election, and shall perform such other duties as shall be lawfully required

of him by the said board—and the record kept by said clerk, and copies of all papers required by this act, and the by-laws passed in pursuance of this act, filed in his office, and certified by him, shall be *prima facie* evidence in all legal proceedings in any of the courts of this state—and perform all other duties (not inconsistent with this act) as are now performed by town clerks. And said clerk shall receive such compensation for his services as the board of trustees shall by ordinance establish.

Marshal—his powers, duties and fees.

SECTION 14. The marshal shall possess all the powers of constables, and be subject to the same liabilities. It shall be his duty to apprehend, with or without process, any person whom he may find in the act of committing any offense against the laws of the state or ordinances of the village, and forthwith take such person or persons before any officer of competent jurisdiction for examination or trial and conviction, as the case may be; and for all such services he shall receive such fees as are allowed to constables for like services.

Treasurer—his duties and compensation.

SECTION 15. The treasurer of said village shall be also the collector of taxes levied for state, county, school and village purposes, and shall perform all such duties and exercise all such powers as may be lawfully required of him by the ordinances of the trustees or the laws of the state. All moneys received by means of any tax, license, fine, forfeiture or otherwise, under the authority of this act, or which may belong to the village, shall be paid into his hands, and shall not be drawn therefrom except by an order made by the trustees, signed by the president and attested by the clerk. He shall keep an accurate account, in books provided by the village for that purpose, of all moneys coming into his hands as treasurer. He shall, as often as required by the trustees, render an account of receipts and expenditures, and at the expiration of his term of office shall hand over to his successor in office all moneys, books, papers and other property in his possession belonging to said office. The said treasurer shall have the same powers, and make his return to the county treasurer, be subject to the same liabilities and laws, and receive the same compensation as town treasurers.

Superintendent—his powers and duties.

SECTION 16. The superintendent of schools, elected by virtue of this act, shall have and exercise the

CHAPTER 296.

same powers and duties, and be subject to the same liabilities and regulations, as superintendents of towns. It shall be his duty to visit the school in each school district: *provided*, said school district be located within said village; to examine all persons making application for said schools as teachers, to grant them certificates to teach therein, and the certificates granted by him shall be evidence that the person or persons to whom the same were given are duly qualified, and he may, by giving any teacher within said village ten days' notice, for good cause annul said certificate. In all cases of a division or alteration of any school district, a part [of] which shall be situated within said corporation, the superintendent of the schools thereof shall be associated with the superintendent of the towns authorized to make such alteration or division, and no alteration or division shall be made without his approval; and the clerk of any such school district shall make the same report to the superintendent of the said village as by law he is now required to make to [the] town superintendent of schools, and he shall not hereafter be required to make a report to the town superintendent, nor shall said district clerk hereafter be required to make a report to the town clerk, but such as he has heretofore been required to make to the town clerk in relation to schools, he shall now make to the clerk of the village.

Assessor—his duties.

SECTION 17. The assessor, between the first day of June and the first day of July, in each year, shall ascertain by diligent inquiry, the names of all taxable persons in said village and also their taxable personal property, and all taxable real estate therein, on the first day of June of each year, and shall make out two assessment rolls of all such taxable property, and appraise the same at the value and in the same manner as town assessors are required to do. The assessor may require any person giving in the amount or list of his taxable property, to make oath before him that the same is full and correct, and any person refusing to make such oath shall not be permitted afterwards to reduce the valuation made by such assessor of his property for that year. All lands occupied and used for farming purposes shall be assessed in the same proportion to its real value as other village property. The assessor after completing his assessment rolls,

shall deliver the same to the president, to be corrected by the trustees as hereinafter provided, and when so corrected, the assessor shall return one of said assessment rolls to the clerk of the board of supervisors of the county at the time and in the manner provided by law for town assessors.

Justices of the peace—their jurisdiction, powers and duties.

SECTION 18. The justices of the peace elected by virtue of this act, shall have and exercise the same jurisdiction, powers and duties, and be subject to the same liabilities and regulations, as justices of the peace of towns, and said justices of the peace within said corporation, shall have jurisdiction of all cases under the provisions of this act, or for [the] violation of any ordinance or by-law thereof; and in all such cases, and in criminal cases, and in suits for damages done to real estate, if the suit should be removed from the justice before whom the same was commenced, for prejudice or other causes, the papers shall be transmitted to the other justice of the peace in the said corporation, if authorized to try a suit between the parties; and if there be no such justice, or if he be absent or sick, then the papers shall be transmitted to the nearest justice of the county in which the writ was issued. He shall before he enters upon the duties of his office, take and subscribe his oath of office, and shall also execute a bond, in writing, with two or more sufficient sureties, to be approved by the president, in the form and manner required by law of justices of the peace. The approval of the sureties shall be endorsed upon such instrument; and the said justices shall cause the same, together with their oath of office, to be filed in the office of the clerk of the circuit court of Jefferson county, and a copy of said instrument duly certified by said clerk, shall be *prima facie* evidence of the contents thereof; and said justices, when thus qualified, shall continue to exercise the powers and duties of their office, until others are elected and qualified in their stead.

Change of venue.

d bond.

Form of oath of office.

SECTION 19. Every officer elected under this act, or appointed by virtue or in pursuance of its provisions, shall, within ten days after his election or appointment, and before he enters upon the duties of his office, take and subscribe an oath or affirmation in the form following, which oath or affirmation shall be filed in the office of the clerk of the board of trustees: "I do solemnly swear or affirm, that I will support the constitution of

CHAPTER 296. the United States, and the constitution of the state of Wisconsin, and faithfully discharge the duties of——— of the village of Waterloo, according to the best of my ability;" and the treasurer and marshal, before they enter upon the duties of their offices, shall execute and deliver a bond to the trustees in such sum and with sureties and conditions as a majority of said trustees may direct, to be approved by the president of said village.

Bond of treasurer and marshal.

Powers of board. SECTION 20. The trustees and president shall be called the board of trustees of the village of Waterloo, and the said board shall have the following powers, to wit: To enact, establish, publish, alter, modify, amend, repeal and enforce all such rules, by-laws and ordinances, for the government and good order of the village, for the suppression of vice and immorality, preventing fires, for the benefit of trade and commerce, as they may deem expedient, declaring and imposing penalties; and to enforce the same against any person or persons who may violate the provisions of such rules, by-laws or ordinances as have been duly passed, adopted and published, by putting up within said village three handbills, written or printed, in three of the most public places, at least two weeks prior to the taking effect thereof; and all such rules, by-laws and ordinances are hereby declared to be and have full force of law: *provided*, they be not repugnant to the constitution of the United States or of this state, or to any law passed in pursuance thereof.

Licenses. 1st. The trustees shall have power to license and regulate taverns, groceries, saloons, victualing-houses, and all persons dealing in spirituous or intoxicating liquors. Said licenses shall not be granted for a less term than one year, nor for a less sum than the amount fixed and provided by the laws of this state; and to license and regulate the exhibition of common showmen, or showmen of any kind, or the exhibition of any natural or artificial curiosities, all caravans, circuses, and theatrical performances, billiard-tables, bowling-saloons, and to provide for the abatement and removal of all nuisances under the ordinances or at common law, and to establish the price, in all cases, except when may be fixed by law.

Gaming. 2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing with dice or other games of chance for gain.

3d. To prevent riots, noise, disturbance or disorderly assemblies, to suppress and restrain disorderly houses or groceries, or houses of ill-fame, to authorize the destruction of all implements or devices for the purpose of gaining, [gaming.] Riots, &c.

4th. To direct the location and management of any slaughter houses and markets, to regulate the storage and keeping of gunpowder and combustible materials. Markets, gunpowder, &c.

5th. To prevent horse-racing or immoderate riding or driving in the streets, and to regulate the places of bathing and swimming. Horse racing, &c.

6th. To restrain the running at large of cattle, swine, horses, sheep, geese and poultry, and to authorize the distraining and sale thereof. Cattle, &c.

7th. To prevent the running at large of dogs, and to authorize their destruction in a summary manner when at large contrary to regulations, and to impose a tax on the same at their discretion. Dogs.

8th. To establish and regulate boards of health, provide hospitals, cemeteries, and regulate the burial of the dead, and the return of the bills of mortality, and provide for the support of schools. Boards of health, cemeteries, &c.

9th. To prevent all persons from riding, driving or leading any horses or other animals on the side-walks within the limits of the village, and from doing any damage to the same. Driving on side-walks.

10th. To prevent the discharge of fire-arms, rockets or crackers, or the exhibition of any fire-works which may endanger the persons or property of the inhabitants of the village. Fire arms, fire-works, &c.

11th. To restrain drunkards or immoderate drinking or obscenity in the streets or any public places, and provide for arresting, removing and punishing any person or persons who may be found guilty of the same. Drunkards.

12th. To prevent the depositing within any waters of the village any dead carcass, or other filth of any kind, and prescribe penalties therefor. Dead carcasses, filth, &c.

13th. To protect trees and monuments within the village. Trees, &c.

14th. To purchase, lease, hold and convey estate, real and personal, for the use of the village, and determine the amount of moneys necessary to be raised by tax in any year for contingent expenses, or for the payment of any liabilities due or to become due against said village of Waterloo. Real and personal property, annual tax, &c.

Notice of completion of assessment roll—appeals.

SECTION 21. Whenever the said assessment roll shall have been delivered to the board of trustees, as mentioned in section 17, such board of trustees shall forthwith direct their clerk to give public notice by publishing the same in writing, in two or more of the most conspicuous places in the village, of the completion of such roll by the assessor, and shall specify in such notice the time when and the place where the said trustees will meet to hear appeals from the proceedings of such assessor. Any such appeal being made to said trustees, they shall have power to alter and correct such assessment rolls, and the said trustees shall have power to equalize the taxes in such assessment roll.

Street improvements.

SECTION 22. Whenever a majority of all the resident owners of real estate bordering on both sides of any street or part of street, not less than ten rods in length, or on any block in said village, shall desire to have such street graded, paved or otherwise improved, they may make and sign an application in writing, to the board of trustees of said village. When such application is received, the trustees shall make an order specifying the manner the work shall be done, and requiring the owners of lots fronting on said street to make the improvement asked for, within such time as they shall deem proper; and if the owners of said lots do not make, or cause to be made, the said improvements within the time so specified, the trustees shall [have] power to cause such work to be done, and levy a tax on the lots in front of which said work is done, and to collect the same as other taxes are collected, to pay therefor.

SECTION 23. Whenever a majority of all the owners of real estate lots bordering on one side of any such street or part of street, shall desire to have a sidewalk built or repaired, the application for that purpose shall be made to the trustees by such owners, and the trustees shall make the same order and specification, and shall have the same power to levy and collect a tax as that contained in the preceding section for streets.

Collection of unpaid taxes.

SECTION 24. The trustees in perfecting the assessment rolls of said village next thereafter, as provided by section 36 of this act, shall enter such unpaid taxes therein in a separate column, with names of the persons and descriptions of property, against the taxes so un-

paid, and such taxes shall be collected in the same manner as the general taxes of said village are collected.

Farming lands not subject, &c.

SECTION 25. Nothing in this act shall be so construed as to require the owners or occupants of any farming lands in said village to build sidewalks, or make other improvements on or opposite said lands unless they are platted for village lots. When such lands, are platted for village lots, they shall be subject to the same laws and regulations as other village property.

Suits—process.

SECTION 26. In all suits for [the] violation of any ordinance of said village, the process may be by summons or warrant.

Defendant may be imprisoned.

SECTION 27. Every execution issued upon any judgment, for the violation or non-observance of any ordinance or by-law of said village, may contain a clause directing, in the event of non-payment of the judgment, the imprisonment of the defendant in the county jail for such time as shall have been provided for by the ordinances under which the judgment shall have been rendered. All fines, penalties and forfeitures for the breach of any law or ordinance, when collected, shall be paid into the village treasury for the use of the village.

Service of process against the village.

SECTION 28. When an action or suit shall be commenced against the village, service thereof may be made by leaving an attested copy of the process with the clerk or president, and it shall be the duty of the person with whom such process is left, forthwith to inform the trustees thereof.

Demands against the village.

SECTION 29. The trustees shall settle all just claims and demands against the village, and pay the same by order on the treasurer, and also settle with the treasurer annually, and publish accounts of receipts and expenditures in writing, if there be no newspaper published in said village.

Street commissioners.

SECTION 30. The trustees shall have power to appoint, and at their pleasure to remove the following officers: one or more street commissioners, and to prescribe their duties, and to inflict fines and penalties for any malfeasance in office.

Non-performance of duties.

SECTION 31. If any of the duties enjoined by this act at any time herein specified, or specified by any ordinance of the trustees, are not then done, the trustees may appoint some other time when the said duties may be done: *provided*, the officers so failing shall not be

CHAPTER 296.

exonerated from prosecution or fine, for neglect of performing their duties.

Poll tax—how expended, &c.

SECTION 32. The trustees shall have power to tax each male person who, by the laws of this state, is subject to perform highway work or labor, not to exceed two days' labor on the streets of said village; but any such person may, at his option, pay at the rate of seventy-five cents per day for every day he may be bound to labor, which money or labor shall be expended by the street commissioner under the direction of the trustees; and in default of the payment of such money or labor, the street commissioners may sue for and collect such money in the name of the village of Waterloo, with fifty per cent. damages on the same, together with costs of suit, before any justice of the peace.

Competency of judge, &c.

SECTION 33. No person shall be an incompetent judge, justice, juror or witness, by reason of his being an inhabitant or freeholder in said village, in any action in which the village is a party interested.

Special taxes.

SECTION 34. Special taxes for the purchase of fire engines, or for the purchase of cemeteries, or for improving the same for the burial of the dead, building a town hall, or for the building of bridges, may be voted at any regular or special meeting of the voters, but no vote shall be taken unless such tax be first recommended by the said trustees, and a notice of the same, specifying the purpose for which said tax is to be raised, and the time and place for voting, be published at least ten days before such meeting, by three or more hand bills put up in public places by the clerk, or in some newspaper published in said village.

Tax for general repairs, &c. of roads, streets and bridges.

SECTION 35. The board of trustees of said village shall have power to levy and collect a tax on all assessed property within said village, for the purpose of general repairs and improvement of roads, streets and bridges in said village, said tax to be apportioned from the last assessment roll; *providing*, that said tax shall in no one year exceed six mills on the dollar valuation; and said trustees shall have the power to provide, by

Haw payable.

an ordinance, for the payment of said tax in labor and materials for said repairs and improvements and the time and manner of performing said labor and furnishing said materials, by the person or persons liable to pay such tax; and said tax, if not paid at the time and in the manner provided by said ordinance of said

board of trustees, shall be collected in the manner provided by section twenty-four of this act.

Annual tax for payment of village indebtedness.

SECTION 36. For the discharge of any debts against said village, or expenditure authorized by the board of trustees under the provisions of this act, or ordinance of said trustees, the trustees shall have power to levy and collect annually a tax on all such real estate and personal property, or capital of any kind within said village, subject to taxation by the laws for levying state and county taxes, for the time being: *provided*, that such tax shall not in any year exceed one per cent. on the dollar of the assessed value of such property. Whenever the assessment roll shall be finally completed as provided in section twenty-one of this act, the trustees shall cause to be levied such amount of tax as shall have been determined to be raised, and shall set opposite to each description and valuation of taxable property, the amount of taxes charged upon such property, and to each person respectively; and when such tax list shall have been completed, they shall forthwith cause a true copy thereof to be made, and a warrant annexed thereto, and deliver such tax list and warrant to the treasurer of said village as hereinafter provided, and the original assessment roll and tax list shall be deposited with the clerk of said village.

Limit.

Tax warrant.

SECTION 37. The warrant annexed to any tax list delivered to the treasurer as aforesaid, shall be signed by the president and countersigned by the clerk of said village, or, in the absence of the president, such warrant shall be signed by a majority of the trustees. Such warrant shall command the treasurer to collect the taxes mentioned in such tax list in sixty days. The trustees of said village may renew the warrant annexed to any tax list for thirty days, when they shall deem [it] necessary, but such warrant shall be renewed but once.

Present officers of the village.

SECTION 38. All the officers of the village of Waterloo shall remain in their respective offices, and perform the duties thereof, until the officers elected by virtue of this act are elected and qualified, at which time they shall deliver over all books, papers, moneys and other property in their possession to the respective village officers who, by the nature of (*his or*) their respective offices, is [are] entitled to the custody of the same.

CHAPTER 296.

Ordinances, &c. now in force.

SECTION 39. All ordinances, regulations or resolutions now in force in the village of Waterloo, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the board of trustees, after this act shall take effect.

Officers whose terms of office have not expired

SECTION 40. Any justice of the peace or other officer of the village of Waterloo, whose term of office shall not have expired at the time this act shall take effect, may hold and exercise the duties of his office for the residue of his term of office, in the same manner as though this act had not been passed, but such officer or officers shall possess all the additional powers conferred upon them by virtue of this act, and shall be subject to all the provisions of this act, the same as though they had been elected under and by virtue of this act.

Annual election of chairman of board of supervisors of town of Waterloo.

SECTION 41. For the purpose of electing a chairman of the board of supervisors in said town of Waterloo, it is hereby declared lawful for the legal voters of said village to assemble at the election polls of said village on the first Tuesday of April of each year, or at such time as may be hereafter provided by law for the annual election of chairman of the board of supervisors in said town, and then and there vote by ballot for a chairman of the board of supervisors in said town. Said chairman may be selected from either the town or village of Waterloo, as a majority of the voters shall by their ballots determine. All ballots for said supervisor shall be deposited in a separate ballot-box, to be provided and kept for that purpose by the election board of said village. The polls of said election shall not be kept open at a later hour than four o'clock in the afternoon of said day of election of said supervisor. As soon as the polls shall be closed, the board of inspectors of said village election shall immediately proceed to canvass the votes cast for chairman of the board of supervisors of said town, and when so canvassed, announce the result publicly; and said board shall then proceed forthwith to make out a certified statement of said votes for said supervisor, and shall seal the same up in a safe manner, and cause the same to be forwarded forthwith to the board of inspectors of elections of said town of Waterloo, then presiding at an election poll for the election of town officers of said town, then being held, and said board of inspectors of

said town shall receive said certified statement of votes cast at said village election poll, and shall include the same in their canvass, in all respects the same as though said votes had been received and deposited at the poll over which they were presiding; and it is hereby provided, that hereafter the board of inspectors of elections of said town, presiding at any town meeting, shall not close up their canvass and announce the final result, until the returns of said village vote cast for chairman of the town board of supervisors, has been by them received, or until 8 o'clock in the afternoon of said day of election of town officers of said town; and said chairman of the town board of supervisors, when so elected, shall be the representative of said village as well as said town in the county board of supervisors, but said chairman of the board of supervisors when thus elected, shall not be the representative of said village for any other purpose or purposes whatsoever, than the one in this section specified.

Failure to hold an election not a loss of franchises.

SECTION 42. If any election shall, for any cause, fail to be held at the time and in the manner herein provided, it shall not be considered reason for suspending or absolving said corporation, but such election shall be had on some subsequent day; and in case of such failure to hold an election, the president or board of trustees shall immediately order such election to be held, and shall give notice of the time and place of such election, as provided by section three of this act; and such election shall be conducted in all respects and have the same effect as though the same had been held at the time and in the maner provided by this act.

Repeal.

SECTION 43. An act entitled an act to incorporate the village of Waterloo, approved March 15th, A. D. 1859, and all acts amending said act, are hereby repealed.

Public act.

SECTION 44. This act shall be considered a public act, and shall be construed favorably in all courts and places, and shall take effect and be in force from and after its passage, and shall immediately after its passage be published in the official state paper.

Approved April 13, 1861.

CHAPTER 301.

[*Published April* 30, 1861.]

AN ACT to authorize the people of the town of Stevens Point to hold a town meeting.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

When meeting to be held.

SECTION 1. The legal voters of the town of Stevens Point, in the county of Portage, are hereby authorized and empowered to hold a town meeting at the house of S. R. Hopkins, in said town, on the 27th day of May, A. D. 1861, for the purpose of electing such officers as are by law to be elected at town meetings, and for the transaction of such other business as may be transacted at the same.

How meeting conducted.

SECTION 2. The proceedings at such town meeting shall, in all respects, be conducted in accordance with sections 13, 14 and 15 of chapter 15 of the revised statutes, entitled "of towns and town officers; powers and duties of towns."

Terms of office of officers.

SECTION 3. The terms for which said town officers are elected, shall expire the same as if said officers were elected on the 2d day of April, A. D. 1861.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved April 15, 1861.

CHAPTER 302.

[*Published April* 26, 1861.]

AN ACT to create the municipal court of the city and town of Ripon.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Municipal court —its jurisdiction, &c.

SECTION 1. There shall be established in the city and town of Ripon, a municipal court, for the transaction of all business that may lawfully come before it; and for that purpose, the city and town of Ripon is hereby con-

stituted a municipality. The municipal court shall be a court of record, with a clerk and seal with a suitable device, to be procured by said clerk at the expense of the city of Ripon; and there is hereby conferred upon the said municipal court, jurisdiction in all civil actions, both as to matters of law and equity, equal to and commensurate with the circuit court for the county of Fond du Lac, within the city and town of Ripon.

Election of judge and clerk.

SECTION 2. The qualified electors of the city and town of Ripon, shall, on the third Tuesday of May, A. D. 1861, and once in every four years thereafter, on the day of the annual town and city election, elect a suitable person to the office of judge of said municipal court, to be called the "municipal judge," who shall hold his office for the term of four years, and until his successor is duly elected and qualified. Said electors shall also elect, at the time and place aforesaid, and once in every two years thereafter, a suitable person to the office of "clerk of the municipal court," who shall hold his office for the term of two years, and until his successor is duly elected and qualified. Said clerk shall, before he enters upon the duties of his office, take an oath to support the constitution of the United States and of the state of Wisconsin, and to faithfully discharge the duties of his said office, and file the same in the office of the city clerk, and shall also execute to the city of Ripon a penal bond in such sum and with such sureties as the common council of said city shall direct, and to be by them approved, conditioned that he shall account [for] and pay over to the city treasurer all fines, penalties and moneys pertaining to either the city or county treasury, which may come into his hands in virtue of his office as clerk, on or before the Tuesday next succeeding the first Monday in November in each year.

Oath and bond of clerk.

Board of canvassers, and their duties.

SECTION 3. The mayor of the city of Ripon, the chairman of the town board of supervisors of the town of Ripon, and the city clerk of said city, are hereby constituted the board of canvassers of the election of the "municipal judge" and "clerk of the municipal court;" and for that purpose they shall meet on the Wednesday next after the election of said judge and clerk, at the office of the clerk of the city of Ripon, and from the statements of the inspectors of the several wards of [said] city of Ripon, delivered to the clerk of said city, and from the statement of the inspectors of the

CHAPTER 302

town of Ripon, delivered to the town clerk of the town of Ripon, they shall make an estimate and statement of the votes for the several candidates for said offices. They shall then determine the persons who have been, by the greatest number of votes, elected, respectively, to the offices of "municipal judge" and "clerk of the municipal court;" and such determination shall be reduced to writing, certified as correct, and attested by the signatures of the said mayor of the city of Ripon, the said chairman of the town board of supervisors of the town of Ripon, and the clerk of the city of Ripon, and shall be filed and recorded by the said city clerk. The clerk of the city of Ripon shall immediately make out, in pursuance of the determination of such board of canvassers, a certificate of election for each person having the greatest number of votes for the office of municipal judge and clerk of the municipal court, and deliver the same to such person upon his making application therefor. If either of the members of the board of canvassers shall fail or be unable to attend, at the time and place in this section before appointed, the member or members then present shall take to his or their assistance one or two justices of the peace of the county of Fond du Lac, as the case may require, who shall for that occasion constitute the board of canvassers, and shall proceed in all things as the board of canvassers are in this section hereinbefore directed.

Oath of office.

SECTION 4. The judge of the municipal court shall, before entering upon the duties of his office, take and subscribe an oath to support the constitution of the United States and [of] the state of Wisconsin, and to faithfully, honestly and impartially discharge the duties of his said office, which oath may be administered by any justice of the peace or other officer authorized by the laws of this state to administer oaths, and shall be filed in the office of the clerk of the city of Ripon.

Power and authority of court.

SECTION 5. The said municipal court shall have full power and authority to issue all legal and civil and criminal process proper and necessary to carry into effect the jurisdiction given it by this act; and to carry out such jurisdiction, shall have and possess all the powers usually possessed by courts of record under the common law, under the limitations and regulations imposed by statutes.

SECTION 6. The board of supervisors of the town of Ripon, shall annually, on or before the last day of May of each year, select and return to the clerk of said court the names of thirty-six persons, citizens of said town, qualified to serve as petit jurors in Fond du Lac county; and the common council of said city of Ripon shall, in like manner, select and return as aforesaid from the citizens of each ward thereof, the names of thirty-six persons qualified as aforesaid, as petit jurors. The clerk of the municipal court shall, in the presence of the marshal of said city, and a justice of the peace of the county of Fond du Lac, proceed to draw a petit jury for the municipal court, in the manner provided in chapter 209 of [the] general laws of 1860, and the same proceeding shall be had as are provided to be had in the circuit courts of this state, in civil and criminal cases; and the provisions of chapter 118 of the revised statutes, is hereby extended to and over the municipal court hereby created so far as the same may be applicable. Petit jury for municipal court.

SECTION 7. The rules of practice and proceedings of said municipal court shall conform, as near as practicable, to the rules of practice and proceedings of the circuit courts of this state. All laws conferring powers and jurisdiction, or regulating the proceeding of circuit courts, or the judges thereof, in civil cases, are hereby extended to and over the municipal court, and the judge thereof, so that the said municipal court and the judge thereof may do and perform all acts, matters and things which may be done and performed by the circuit court of Fond du Lac county, or the judge thereof, in civil cases. Rules of practice of court.

SECTION 8. The municipal court shall be held at some suitable place in the city of Ripon, to be provided by said city. There shall be four general terms of said municipal court, for which terms petit jurors shall be drawn. Such terms shall be held, for the year 1861, as follows: on the first Monday in May, the first Monday in August, the second Monday in October, and the first Monday in December; and thereafter they shall be held in each year as follows: on the third Monday in April, the second Monday in July, the second Monday in October, and the first Monday in December. Terms of court, &c.

SECTION 9. The clerk of the municipal court shall have the custody and care all of the books, papers and records of the court. He shall be present at all trials, Powers and duties of clerk.

unless absent from sickness, or with the consent of the judge, in which case the court may appoint some person temporarily in his place; and in case of a vacancy occurring in the office of said clerk of said court, the judge thereof shall appoint some person as clerk until the vacancy can be filled by an election. The clerk may swear all witnesses and jurors, and administer oaths and affirmations. He shall keep minutes of all the proceedings, and enter the judgments, and make up and keep the records of the court. He shall issue all processes under his hand and the seal of the court, and tested in the name of the judge thereof, signing himself, "clerk of the municipal court," and tax costs.

Docketing of judgments.

SECTION 10. On filing a judgment roll upon a judgment, directing, in whole or in part, the payment of money, it may be docketed with the clerk of the municipal court, when rendered in said court, and shall be a lien on the real property, in the town and city of Ripon, of every person against whom such judgment shall be rendered, and which he may have at the time of docketing thereof, in the said town or city, or which he shall acquire at any time thereafter for ten years from the time of docketing the same in said town or city. A transcript of the original docket of any judgment docketed with the clerk of the municipal court, may be filed with the clerk of the circuit court in any county in this state, and when so filed, shall have the same force and effect, and be a lien upon the real estate of the defendant in said county, as provided in section 36 of chapter 132 of the revised states, [statutes.]

Officers of the court.

SECTION 11. The sheriff of Fond du Lac county and the city marshal of the city of Ripon, shall be officers of the municipal court. Either one of them may serve its process and carry into effect its lawful orders, judgments and biddings.

Powers and duties of court.

SECTION 12. All the general provisions of the statutes of the state of Wisconsin relating to the powers and duties of the circuit courts of this state in civil cases, shall apply to the municipal court hereby established, as they now exist or as shall hereafter be provided for the circuit courts of the state.

Contempt.

SECTION 13. The judge of the municipal court shall have power to punish contempts in the same manner and for like causes, and to the same extent, that the judges of the circuit courts are or may be authorized by law to punish for contempts.

SECTION 14. The judge of the municipal court may be removed from office in the manner provided for the removal of judges of the supreme or circuit courts, in the constitution of this state. Judge may be removed.

SECTION 15. The process of the municipal court shall be, in substance, the same as is used in the circuit courts of this state, and the municipal court may, by rule, direct the practice of the same, and the form and direction of process, when not otherwise provided by law; and the process of said courts may be served in any part of this state. Rules and practice.

SECTION 16. The judge of the municipal court shall have power whenever there shall happen to be a deficiency of jurors for any cause whatever, to award a special venire or venires through the term, or any day or days of the term, to summon a number of jurors sufficient to complete the number of the original panel. Special venires.

SECTION 17. The judgments of the municipal court may be examined and reviewed by the supreme court, either upon appeal, writs of error or otherwise, in the same manner and to like extent as the judgments of the circuit courts of this state. Review of judgments.

SECTION 18. The fees of jurors, witnesses, sheriffs and other officers, and the taxable costs of suits, shall be the same as are taxed respectively in similar cases in the circuit courts of this state. Fees.

SECTION 19. The municipal court may, in its discretion, grant such continuances of cases pending before it as may be necessary. When the court is not in session, the clerk, on application, shall have the power to take bail for the appearance of the person under arrest before the court, subject to the revision of the court. Continuances.

SECTION 20. The city attorney shall be the prosecuting officer in all city prosecutions before the municipal court. Prosecuting officer.

SECTION 21. From and after the taking effect of this act, all appeals in civil actions from justices of the peace, in said city and town of Ripon, shall be taken to said municipal court, instead of the circuit court of the county of Fond du Lac, as now provided by law; and the like proceedings therein shall be had in said municipal court, and such appeals shall be tried and determined therein, in the same manner as is by law required in the circuit courts. Appeals from justices.

CHAPTER 302.

Blanks, stationery, &c.

SECTION 22. The clerk of the municipal court shall, under the direction and with the consent of the board of the common council of the city of Ripon, (unless otherwise provided,) from time to time procure and furnish all the necessary blanks, stationery, court, jury room and office furniture, book and paper cases, desks, record books, lights and fuel, for the use of the court and of the clerk thereof, at the expense of the city of Ripon, for one-fourth of which expense the town of Ripon shall be indebted to, and pay the same to the city of Ripon.

Vacancies—how filled.

SECTION 23. Upon the happening of a vacancy in the office of municipal judge or clerk, the sheriff of Fond du Lac county shall by proclamation notify the electors of the city and town of Ripon thereof, and at the same time order an election to be held to fill the same for the unexpired term, giving at least twenty days' notice to the several wards of the city of Ripon and town of Ripon, of the time and place thereof. Such election shall be for the unexpired part of the term of office, and no longer.

Removal of civil actions from circuit to municipal court.

SECTION 24. From and after the taking effect of this act, any resident of the city of Ripon or town of Ripon, against whom a civil action or proceeding shall be commenced in the circuit court for the county of Fond du Lac, may demand that the place of trial be changed from the said circuit court to the said municipal court, and if not changed by the plaintiff, the change of place of trial shall be granted upon motion by the court: *provided*, the party or parties desiring the change of place of trial from said circuit court to the said municipal court, shall demand such change before the time to answer shall expire.

Change of venue

SECTION 25. In granting a change of place of trial, the judges of the circuit courts of this state may change the same to the municipal court by this act created, as well as to the circuit court of any other county: *provided*, that no cause specified in chapter 123 of [the] revised statutes exists against such change.

Suit tax.

SECTION 26. On each civil suit in the municipal court, there shall be levied a tax of one dollar, which shall be paid to the clerk at the time of the commencement thereof, and shall be paid to the judge of the municipal court, as part of his fees. Said sum of one dollar shall be taxed in the bill of cost, and recovered as other costs of suit.

Taxing costs.

SECTION 27. Costs shall be taxed in the municipal court in the same manner as in the circuit courts of this state.

Fees of judge.

SECTION 28. The judge of the municipal court shall, in all civil actions and proceedings, receive such fees as are hereinafter provided, to be taxed for the services of said municipal judge, or to be paid to the said municipal judge.

Special terms.

SECTION 29. The judge of said municipal court shall have the same power to hold special or adjourned terms of his court, as is now or may hereafter be conferred on the circuit courts of this state.

Confinement.

SECTION 30. The use of the jail of Fond du Lac county shall be granted to the said municipal court, for the confinement of all persons sentenced by said court to imprisonment for contempt, or otherwise; and every such person shall be delivered to the sheriff of said county, for whose custody, safe keeping and delivery, the said sheriff shall be responsible, as in other cases.

Causes not to be tried by the judge.

SECTION 31. The judge of said municipal court shall not have power to try and determine any cause in which he shall be interested, or in which he shall have acted as counsel for either party, except by agreement of the parties; and in all cases where said judge shall be a party or shall have been counsel for either party, he shall transmit the cause to the circuit court of Fond du Lac county, certifying the reasons as aforesaid; and the circuit court shall thereupon proceed to try and determine the same, in the same manner and order as if it had originated in the circuit court.

Fees in civil actions.

SECTION 32. In all civil actions or proceedings in said municipal court, the judge of said court shall receive the following fees for his services in term time or at chambers:

Confession of judgment.

For all services in any amicable action, when judgment is confessed on the first appearance of parties, one dollar and fifty cents.

Adjournment, &c.

For every continuance or adjournment of a cause, fifty cents.

Bail, &c.

For taking bail, recognizance or other security when required by law, and approving the same, fifty cents.

Order, &c.

For every order or notice required to be made or given by the municipal judge in the progress of a cause, except orders made on the day of trial, one dollar.

Confession of judgment on return of process

For all services in a cause wherein judgment is con-

CHAPTER 302.

fessed by defendant, or cause disposed of without trial on the merits, on return of process, two dollars.

Trial without jury. For all services on the trial of a cause without a jury, including the rendition of judgment, two dollars and fifty cents; and in case the trial shall exceed one day, two dollars for every additional day.

Trial with jury. For all services on the trial of a cause with a jury, including receiving and entering verdict and rendering judgment, four dollars; and if the jury be discharged and a new trial ordered, or the cause otherwise disposed of, two dollars; and in case the trial shall exceed one day, two dollars for every additional day.

Discontinuance. For every judgment of discontinuance, after adjournment or dismissal of the action, or proceedings without trial, one dollar.

Habeas corpus, &c. Deciding upon an application for a writ of *habeas corpus* or *certiorari*, seventy-five cents, whether such writ be allowed or not.

Every attendance upon the hearing of any motion for any order which said judge is authorized to grant, fifty cents, and the like fee for attendance upon any motion for any official act to be done by said judge when no fee is specially provided for such act.

Next friend. Admitting any person to prosecute as the next friend, or to defend as guardian of any infant, twenty-five cents.

Commissioner. Every order for a commissioner to examine witnesses, twenty-five cents.

Certificate, &c. Attending, settling and certifying interrogatories to be annexed to a commission, seventy-five cents.

Order to examine witness. Every order for the examination of a witness conditionally, or upon any proceedings to perpetuate his testimony, fifty cents.

Per diem. Every day's attendance on examination of such witness, two dollars.

Order. Every necessary order in the progress of a cause, except orders to stay proceedings, fifty cents.

Signing judg't. Signing a judgment, twenty-five cents.

Taxing costs. Taxing a bill of costs, twenty-five cents.

Acknowledgm't. Taking the acknowledgment of satisfaction of a judgment, twenty-five cents.

Bond, &c. Taking a bond, undertaking or recognizance, when the same is required or authorized by law, fifty cents.

Sureties. For deciding on the sufficiency of sureties, and cer-

fying such sufficiency in cases were it shall appear, fifty cents.

Precept, &c. For every precept for a jury, summons for a witness or attachment against a witness, fifty cents.

Filing petition, &c. Receiving and filing the petition and accompanying papers of insolvent debtor, fifty cents.

Order, &c. For every order, warrant, certificate or appointment of assignees in such proceedings, fifty cents.

Assignment. For deciding upon the propriety of directing an assignment of the estate of an insolvent debtor, one dollar.

Discharge. Signing the discharge of an insolvent debtor, one dollar.

Referees. For attending to the selection of referees and certifying their appointment, fifty cents.

Special proceedings. For every order, warrant or attachment made or issued in any special proceeding authorized by law, fifty cents.

Notice. For every notice to any party, officer or person, required to be given by such officer, fifty cents.

Per folio. For every report and all other papers and proceedings which he may be required by law to prepare, in order to be signed by himself, in cases where no specific allowance shall have been made for such paper or proceeding, for drafting the same, twenty cents for each folio, and for copying, ten cents for each folio.

Hearing habeas corpus. Hearing and deciding on the return of a writ of *habeas corpus*, two dollars.

Administering oath. For administering an oath in cases where no fee is specifically provided for by law, and certifying the same when required, twelve cents.

Acknowledgm'ts For taking and certifying the acknowledgment or proof of any conveyance or mortgage of real estate, or any other instrument which by law may be recorded, twenty-five cents for each person making such acknowledgment, or whose execution of such conveyance, mortgage or instrument shall be proved.

Surrender. Taking a surrender of principal in any cause, twenty-five cents.

Commitment. For a commitment of such principal, fifty cents.

Allowing habeas corpus. Allowing a writ of *habeas corpus* or *certiorari*, fifty cents.

Warrant restitution. A warrant of restitution, or to put any person in possession of land, one dollar.

Marrying. For marrying and making certificates and return thereof, one dollar and fifty cents.

CHAPTER 306.

Injunction, &c. For perusing a bill or petition for an injunction, or *ne exeat*, and allowing or refusing writ, one dollar.

Eligibility. SECTION 33. No person shall be eligible for election to the office of judge of the municipal court, unless such person, at the time of his election, shall be a resident either of the city or town of Ripon.

Public act. SECTION 34. This act shall take effect and be in force from and after its passage and publication. It is hereby declared to be a public act, and shall be favorably construed in all courts and places.

Approved April 15, 1861.

CHAPTER 306.

[*Published April* 30, 1861.]

AN ACT to revise [revive] and amend an act entitled an act to incorporate the La Crosse and Black River Falls railroad company, approved March 3d, 1855.

The People of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

Revived. SECTION 1. An act entitled "an act to incorporate the La Crosse and Black River Falls railroad company," approved March 3d, 1855, is hereby revived and declared to be in full force and effect.

Time extended. SECTION 2. The time limited by the 18th section of the said act, hereby revived and amended, is hereby extended until the third day of March, in the year 1866.

Corporators. SECTION 3. Leonard Lottridge, Thomas Spence, Harvey Rumsey, Theadore B. Edwards and Moses Anderson of the city of La Crosse, Charles M. Nichols of Onalaska, Chase A. Stevens of Stevenstown, Hugh Douglass of Melrose, William T. Price, D. D. Cheeney and Thomas O. Hearn of Black River Falls, are hereby declared corporators in said company, and shall constitute the board of directors of said company, instead of the persons named in the third section of said act, and shall have all the rights, powers and authority conferred by said act upon the first board of directors, and shall discharge all the duties of such directors.

SECTION 4. The capital stock of said company shall consist of twenty thousand shares of one hundred dollars each; but stock certificates shall be issued only for such number of shares as shall be actually paid for at par. And the directors are hereby authorized to receive in payment for any of the shares of such stock at par, any real estate situated within this state, at its fair cash value, or any personal property; but shall not receive in payment for any such stock, any notes or bonds secured by mortgage or otherwise, commonly known as farm mortgages. Capital stock. Real and personal property received in payment.

SECTION 5. The said company is hereby authorized and fully empowered to make, execute and deliver to any person in trust or otherwise, any mortgage or mortgages which it may think proper, in security for the payment of the principal or interest of any bonds which may be issued by said company, or of any other debt, upon the whole or any part of the real estate of the said corporation, whether acquired by said corporation by gift, grant, devise or lease, or in payment for stock, and also of or upon the whole or any part of the railroad of said corporation, with its equipments and appurtenances and fixtures, and the rolling stock of said company; and such mortgage may embrace not only any property in the possession of said company at the time of the execution of such mortgage, but also such as may be acquired thereafter. May execute mortgages, &c.

SECTION 6. At all elections of directors and at all other meetings of stockholders, all *bona fide* holders of any one of the unpaid bonds of said company shall have the same right of voting as the stockholders of said company, in proportion to the amount of said bonds; that is to say, every such bond holder shall be entitled to one vote for every one hundred dollars of the amount of bonds held by him; and the number of votes to which such bond holder shall be entitled, shall be specified in every bond issued by said company. Election of directors.

SECTION 7. The said company is hereby authorized to locate and construct its railroad from any point in the city of La Crosse, which the board of directors shall think proper, instead of a point on the Mississippi river, as prescribed in the said act of which this is amendatory. Location.

SECTION 8. The track, right of way, depot grounds and buildings, machine shops, rolling stock and all Taxation.

other property necessarily used in operating the railroad of said company, shall be subject to the same assessment and taxation, and no other, and entitled to the same exemptions, of like property of other railroads in this state is now by general law subject or entitled to.

Three per cent. of earnings to be paid into state treasury.

SECTION 9. In consideration of the privileges and exemptions granted to and conferred upon the said company by this act, the said company shall annually, on or before such day as other railroad companies are or may be required to pay the tax or license required of them by law to be paid, pay into the treasury of this state three per centum of the gross earnings of its railroad for the year ending on the last day of the next preceding December, to be ascertained by deducting the total expense for the operating and repair of said railroad and rolling stock for such year, from the total receipts of the year. And the said company shall be compelled to apply for and obtain a license in the manner directed by chapter 174 of the general laws of 1860.

How earnings to be ascertained.

SECTION 10. For the purpose of ascertaining the gross earnings of said company, it shall keep an accurate account of its annual receipts and expenses; an abstract whereof for each calendar year shall be furnished by said company to the treasurer of this state, on or before the tenth day of February in each year, the truth of which abstract shall be verified by the affidavit of the officer of said company having the charge and custody of such accounts; and if such officer shall knowingly and willfully swear falsely in such affidavit, such false swearing is hereby declared to be perjury, and to subject such officer to the penalty provided by law for such crime.

Governor, &c., may examine books, &c.

SECTION 11. For the purpose of ascertaining the correctness of such abstract, and the truth of such affidavit, full power is hereby vested in the governor of this state, or any other person appointed as by law prescribed, to examine the books and papers of said company, and to examine, under oath, the officers, agents and employees of said company, and other persons; and if any person so examined by the governor or other authorized person, shall knowingly and willfully swear falsely concerning the matter about which he shall give testimony, such false swearing is hereby

declared to be perjury, and to subject such person to the penalty provided by law for such crime.

State to have first lien on road, &c.

SECTION 12. For securing to this state the payment of the aforesaid per centage, it is hereby declared that the state shall have the first lien upon the railroad and all other property of said company, which lien shall take and have precedence of all demands, decrees and judgments against said company; and the state shall also, in case of such failure or neglect by said company to pay such per centage, have the right to proceed against said company to procure a forfeiture of its charter, in the manner provided in chapter 174 of the general laws of 1860; and if the said company shall refuse or neglect for the space of ninety days, to pay such per centage, the state may repeal the exemption from taxation hereby granted, and thereafter the lands so exempted shall be subject to assessment and taxation in the same manner as they would have been, if this act had not passed.

When exemption from taxation to cease.

SECTION 13. If ten miles of the railroad of said company shall not be completed so as to admit of the running of a locomotive over the same, within five years from the date of the passage of this act, and if said railroad shall not be in like manner completed to its north-eastern terminus, at or near the Black River Falls, within ten years from the date of the passage of this act, then the exemption from assessment and taxation, conferred by this act, shall cease and determine in relation to such proportion of the lands of said company so exempt, as the uncompleted portion of the line of said railroad bears to the whole line; and the lands in relation to which such exemption shall so cease, shall be those which are most distant from the completed portion of said railroad.

Repeal.

SECTION 14. So much of the act of which this is amendatory, and which is hereby revived, as conflicts with the provisions of this act, or is inconsistent with or repugnant to the provisions of this act, is hereby repealed.

Public act.

SECTION 15. This act is hereby declared a public act.

SECTION 16. This act shall take effect and be in force from and after its passage.

Approved April 15, 1861.

STATE OF WISCONSIN, } ss.
SECRETARY'S OFFICE, }

The secretary of state, of the state of Wisconsin, does hereby certify, that the laws published in this book have been compared with the originals deposited in this office, and that they appear to be correctly printed.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the state, at the capitol in Madison, this 12th day of October, one thousand eight hundred and sixty-one.

[L. S.]

L. P. HARVEY,
Secretary of State.

INDEX TO PRIVATE AND LOCAL LAWS.

INDEX.

A

AGRICULTURAL SOCIETY of Richland county—proceedings of, legalized, 92
AHNEPEE—state road from, to Green Bay..... 311
expenditure of drainage fund in town of..... 337
AID SOCIETY—orphans', Kenosha, name changed..... 50
ALMA—state road from, to Prescott..... 326
AMENDMENT—to grant of certain island to O. Garrison and H. W. Jackson 13
act to incorporate Milwaukee orphan asylum..... 14
.....do..... Mil., Wat. and B. V. R. R. co..... 22
.....do..... Peshtigo lumber and manufacturing co..... 27
.....do..... Racine college..... 29
.....do..... Wisconsin female college..... 32
.....do..... Oshkosh and Wausau R. R. co..... 35
.....do..... Wat., Hub., Port. and Wat. P. R. co..... 60
.....do..... Mil. and Waukesha P. R. co..... 71
.....do..... Green Bay, Depere and Madison R. R. co..... 86
.....do..... Lake Superior forwarding co..... 110
.....do..... city of Mineral Point..... 136
.....do.....do... Oshkosh..... 176
.....do.....do... Berlin..... 228
.....do.....do... Racine..... 260
.....do.....do... Beloit..... 290
.....do.....do... Prescott..... 310
.....do.....do... Stevens Point..... 316
.....do.....do... Watertown..... 323
.....do.....do... Hudson..... 330
.....do..... village of Monroe..... 111
.....do.....do... Elkhorn..... 175
.....do.....do... Oconto..... 293
.....do.....do... Delavan..... 314
.....do.....do... Horicon..... 322
.....do..... Sugar River Valley R. R. co..... 333
.....do..... Madison into separate school district..... 361
.....do..... La Crosse and Black River Falls R. R. co..... 392
act of 1859, relative to a bridge across Wisconsin river..... 43
act of 1859, to authorize Wm. Knapp to maintain a ferry..... 92
act of 1856, to authorize J. Lower and others to maintain a toll bridge 94
act to grant additional powers to trustees of village of Neenah..... 324
act to amend charter of city of Milwaukee..... 348, 355
AMERICAN LEATHER CO.—incorporation of..... 33
APPLETON—change of ward boundaries, &c., in city of..... 178
APPROPRIATION—to N. S. Hill and E. E. Hundley..... 331
ARLINGTON AND LEEDS—highway between towns of, legalized..... 29

B

BANK—Koshkonong, authorized to remove to Jefferson..... 10
Lumberman's.....do.....do.....Hustisford..... 107
of Moneka.....do.....do.....do..... 107
Commercial.....do.....do...its place of business and reduce its capital..... 30
Racine county, authorized to reduce its capital..... 12
Clark county,.....do.....do..... 13
Northwestern.....do.....do..... 16
Wisconsin, (Madison).....do.....do..... 17
Southern.....do.....do..... 18
of Fond du Lac.....do.....do..... 20
of Wisconsin.....do.....do..... 23
Waukesha county.....do.....do..... 67
State Stock.....do.....do..... 74
of Horicon.....do.....do..... 76
BELOIT—charter of city of, amended..... 290
BERLIN—.....do .....do..... 228
BESLEY, James G.—act for relief of creditors of..... 20
BLACK RIVER—A. Sheppard and J. Valentine authorized to keep a sheer boom on..... 37
A. Sheppard and J. Valentine authorized to maintain a dam on..... 67
BLACK RIVER FALLS—state road from, to Chippewa Falls..... 327
BOOM—on Kewaunee river..... 31
across Red Cedar river..... 34
on Black river..... 37
at Meridan island, in Chippewa river..... 46
on Chippewa river..... 75
BORLAND, John, and E. B. Dean—authorized to keep dock and pier..... 18
BRIDGE—across Milwaukee river..... 15
across Wisconsin river..... 43
BROOKFIELD—state road to, from Merton..... 314
BROWN and Kewaunee counties—state roads in..... 325, 347
BUFFALO CO.—removal of county seat of..... 342
BUILDING SOCIETY of Milwaukee—incorporation of..... 69

C

CANAL—A. L. Flint, assignee, &c., authorized to widen certain, and to erect dam..... 21
CASCO, Montpelier and Franklin—state road in towns of..... 319
CHICAGO AND N. W. R. R.—may lease or consolidate with certain other roads..... 36
CHILTON AND MANITOWOC P. R. CO.—incorporation of..... 95
CHIPPEWA FALLS—state road to, from Black River Falls..... 327
CHIPPEWA RIVER—booma cross, at Meridan island..... 46
.....do..... in town of Montpelier..... 75
CLARK COUNTY BANK—authorized to reduce its capital..... 13
CLINTON—school district No. 2 in town of, authorized to borrow money... 68
COLLEGE—act to incorporate Racine, amended..... 29
.....do..... Wisconsin female, amended..... 32
COLUMBIA CO.—act of 1853, to authorize aid by, to certain R. R.'s, repealed 23
certain highways in, legalized..... 29
COLUMBUS—state road to, from Watertown..... 327
COMMERCIAL BANK—authorized to reduce capital, and remove place of business..... 30
CONCORDIA SOCIETY of Menasha—incorporation of..... 93
CONSOLIDATE—Chicago and N. W., Ft. Howard and Appleton, and G. Bay and Madison R. R.'s may..... 36

COUNTY SEAT of Buffalo county—act for removal of..... 342
CUNNINGHAM, C. H., J. R. Slauson and I. Taylor—authorized to maintain dam, &c..... 74
authorized to keep boom, &c..... 31

D

DAM—across Makan river..... 21
across Red Cedar river..... 37, 45
across Black river..... 67
across the Scarboror river..... 74
across Milwaukee river..... 91
DEAN, E. B. and John Borland—authorized to keep a dock and pier..... 18
DECKER, Edward—authorized to build dock and pier..... 7
DELAVAN—charter of village of, amended..... 314
DOCKS AND PIERS—extending in Lake Michigan..... 7, 17, 18
DOUGLAS and La Pointe counties—state road in..... 329
DOWNS, Burrage B.—authorized to construct boom..... 34
.....do..... dam..... 45
DRAINAGE FUND—expenditure of, in towns of Forestville and Ahnepee... 337
.....do..... Portage county..... 338
.....do..... Waupacca county..... 340

E

ELKHORN—place of business of Northwestern watch company..... 24
village charter of, amended..... 175
EXEMPTION from taxation—property of Green Bay turners' society..... 65

F

FERRY—across Menomonee river..... 42
across Wisconsin river, act of 1859, authorizing Wm. Knapp to maintain, amended..... 92
FISH—preservation of, in North lake..... 90
FIRE DEPARTMENT of Oshkosh—incorporation of..... 8
of Milwaukee—distribution of funds of..... 38
FLINT, A. L., assignee, &c.—authorized to widen canal and erect dam..... 21
FLINT'S ADDITION to St. Croix—portions of, vacated..... 61
FOND DU LAC—bank of, authorized to reduce its capital..... 20
railroad to, from Glenbeulah..... 356
aid by county of, to railroad from Glenbeulah..... 356
FORESTVILLE—expenditure of drainage fund in town of..... 337
FORSYTH—relief of town of..... 12
FORT ATKINSON—removal of Koshkonong bank from..... 10
FORT HOWARD AND APPLETON R. R.—may lease to or connect with C. and N. W. R. R..... 36
FORWARDING COMPANY of Lake Superior—incorporation of..... 82, 110
FRANKLIN, Montpelier and Casco—state road in towns of..... 319
FUNDS—of fire department of Milwaukee, distribution of..... 38

G

GARRISON, O. and H. W. Jackson—act granting certain island to, amended 13
GAS LIGHT AND COKE CO. of Kenosha—incorporation of..... 72
GERMAN MUSICAL SOCIETY of Watertown—incorporation of..... 108
GLENBEULAH—railroad from, to Fond du Lac and Ripon..... 356
GRANT—of lands to La C. and M. R. R. repealed in part..... 333
GREEN BAY—state road to, from Ahnepee..... 311
.....do..... Kewaunee..... 316

GREEN BAY AND M... to or connect with C. and N. W. 56
GREEN BAY, DEPE... -act to incorporate, amended 86
GREEN BAY TURNE... ion of, legalized, &c..... 65
GYMNASTIC ASSOCI... ncorporation of..... 48

HIGHWAY—certain, ... 26
certain, in Co... 29
.....do..... W... 330
See STATE ROAD.
HILL, N. S. and E. E. ... o..... 331
HOLFMANN, Garret... 11
HOME COLLEGIATE I... additional powers conferred upon 62
HOME OF THE FRIEN... changed from Orphans' aid society 50
HORICON—bank of, a... apital..... 76
charter of vi... 322
HORTICULTURAL SO... rporation of..... 47
HUDSON—issue of or... f, limited..... 42
charter of city 330
HUNDLEY, E. E. and ... to..... 331
HUSTISFORD—remov... k and Bank of Moneka,..... 107

INDEBTEDNESS of cit... ent of..... 343
ISLAND—act granting ... d H. W. Jackson, amended 18
JACKSON, H. W. and C... certain island to, amended 13
JEFFERSON—removal ... village of..... 10

KIEL—state road by way of village of..... 328
KENOSHA—name of Orphans' aid society in, changed to Home of the friendless..... 50
KENOSHA Gas Light and Coke company—incorporation of..... 72
KEWAUNEE—state road from, to Green Bay..... 316
KEWAUNEE AND BROWN COUNTIES—state roads in..... 325, 347
KEWAUNEE RIVER—booms on..... 31
KEWAUNEE AND GREEN BAY R. R.—incorporation of..... 51
plankroad company.....do..... 100
KNAPP, John H. and others—may keep dam, &c..... 37
KNAPP, William—act of 1859, to authorize ferry across Wiscon...in river, amended..... 92
KOSHKONONG—bank of, authorized to remove to Jefferson..... 10

L

LA CROSSE AND MIL. R. R.—grant of lands to, repealed in part..... 333
LA CROSSE AND BLACK R. FALLS R. R.—charter of, amended..... 392
LAKE SUPERIOR Forwarding company—incorporation of..... 82, 110
LANCASTER—removal of Commercial bank to..... 30
LANDS—grant of, to La C. and Mil. R. R. repealed in part..... 333
certain, detached from city and annexed to town of Sheboygan..... 309
title to certain, in Rock county, quieted..... 331

LA PLUME SLOUGH—act relating to toll bridge across, amended..... 94
LA POINTE and Douglas counties—state road in..... 329
LEASE—Ft. H. & App., and G. B. & Mad. R. R.'s may, to C & N. W. R. R..... 36
LEATHER COMPANY—American, incorporation of..... 33
LEEDS and Arlington—highway between towns of, legalized..... 29
LEGALIZED—certain highway in Columbia county..... 29
organization of Green Bay turners' society..... 65
proceedings of Richland county agricultural society..... 92
certain highways in Washington county..... 330
LEGISLATURE—list of members of..... 3–6
LIMITED—issue of orders by common council of Hudson..... 42
LOCAL LAWS. *See* AMENDMENT.
LOWER, J. and associates—act of 1856, authorizing maintenance by, of toll bridge across La Plume slough, amended..... 94
LUMBERMAN'S BANK—removal of, from Viroqua to Hustisford..... 107

M

MADISON—incorporation of horticultural society of..... 47
arrangement, &c., of indebtedness of..... 343
a separate school district, act..... 361
MAKAN RIVER—dam across..... 21
MANITOWOC—state road from, to Taycheedah..... 328
MEAD, Ira—authorized to maintain boom, &c..... 46
MEMBERS OF LEGISLATURE—list of..... 3, 6
MENASHA—incorporation of Concordia society of..... 93
MENOMONEE RIVER—ferry across..... 42
MERIDAN ISLAND—boom across Chippewa river at..... 46
MERTON—state road from, to Brookfield..... 314
MILWAUKEE—orphan asylum, act incorporating, amended..... 14
authorized to construct certain bridge..... 15
distribution of funds of fire department of..... 38
gymnastic association, incorporation of..... 48
city building society, incorporation of..... 69
acts to amend charter of city of, amended..... 348, 355
construction of water works in city of..... 349
MILWAUKEE RIVER—city may build certain bridge across..... 15
dam across..... 91
MIL., WAT. AND BARABOO V. R. R.—charter amended, name changed, &c. 22
MIL. AND WESTERN R. R.—name of Mil., Wat. and B. V. R. R. changed to 22
when part of, may become state road..... 327
MILWAUKEE AND WATERTOWN R. R.—act of 1853, authorizing certain towns to aid, repealed..... 23
MILWAUKEE AND LISBON P. R.—part declared state road..... 314
MILWAUKEE AND WAUKESHA P. R. Co.—act to incorporate amended.... 71
MINERAL POINT—charter of city of, amended..... 136
MINING, Smelting and Manufacturing Co. of Wisconsin—incorporation of.. 76
MONEKA—removal of bank of, from Viroqua to Hustisford..... 107
MONROE—act to incorporate village of, amended..... 111
MONTPELIER—dam across Scarboro river, in town of..... 74
MONTPELIER, Casco and Franklin—state road in towns of..... 319
MUNICIPAL COURT—creation of, in city and town of Ripon..... 382
MUSICAL SOCIETY—Watertown German, incorporation of..... 108

N

NEENAH—act to grant additional powers to trustees of village of, amended 324
NORTH LAKE—preservation of fish in..... 90
NORTHWESTERN BANK—authorized to reduce its capital..... 16
NORTHWESTERN WATCH Manufacturing Co—incorporation of..... 24

O

OAKLAND—place of busi... any..... 87
OCONTO—charter of villa... 293
OFFICERS—list of state... 3
ORDERS—issue of, by com... imited..... 42
ORPHANS' AID SOCIETY ... ged..... 50
OSHKOSH—incorporation 8
charter of city of, ... 176
OSHKOSH AND WAUSAU ... , amended..... 35

P

PESHTIGO Lumbering and ... to incorporate, amended 27
PETERSON, Soren—act fo... 90
PIER. *See* DOCK AND PIER
PLANKROAD—act to incor... and Wat., amended..... 60
.....do... a.....do..... 71
incorporation of C... 95
.....do..... F... y..... 100
part of Mil. and I... d..... *314*
PLATTEVILLE—incorpora... 113
PORTAGE CO.—expenditu... 338
act of 1860, to rem... , repealed..... 346
PORT WASHINGTON Sing... ration of..... 80
PRESCOTT—act to incorpo... 310
state road to, from 326
PRIVATE AND LOCAL LA...

R

RACINE—charter of city c... 260
Commercial bank ... its capital and change its place of 30
RACINE CO. BANK—autho... l..... 12
RACINE COLLEGE—act to 29
RAILROAD—Mil., Wat. an... name changed, &c..... 22
Mil. and Western, ... Valley..... 22
.....do..... ...ared state road..... 327
Mil. and Watertow... ...g certain towns to aid, repealed..... 23
act of 1853, autho... id certain, repealed..... 23
Oshkosh and Wau... mended..... 35
Ch. and N. W. may ... certain..... 36
Ft. How. and App. ... ...te with Ch. and N. W.. 36
G. Bay and Mad... .....do..... 36
Kewaunee and Gre... ...poration of..... 51
G. Bay, Dep. and Mad., act to incorporate, amended..... 86
Sugar R. Valley .....do.....do..... 333
Sheboygan and Mississippi, aid to, &c..... 356
from Glenbeulah to Fond du Lac and Ripon..... 356
La C. and Black R. Falls, charter of, amended..... 392
RED CEDAR RIVER—B. B. Downs authorized to construct boom across..... 34
.....do.....do..... build dam across..... 45
J. H. Knapp and others may keep a dam across..... 37
RELIEF—of Garret Holfmann, act for..... 11
of town of Forsyth, act for..... 12
of Leopold Kottman, act for..... 19
of creditors of estate of James G. Besley, act for..... 20
of Soren Peterson..... 90

REPEALED—act of 1853, authorizing Columbia co. to aid certain R. R.'s..... 23
.....do..... certain towns to aid M. and W. R. R.. 23
act of 1856, authorizing ferry across Menomonee river..... 42
act of 1860, for relief of Soren Peterson..... 90
part of act of 1860, amending charter of village of Oconto..... 293
portion of grant of land to La C. and Mil. R. R..... 333
act of 1860, to remit certain indebtedness to Portage co..... 346
RICHLAND CO. AG. SOC.—proceedings of, legalized..... 92
RIPON—railroad to, from Glenbeulah and Fond du Lac..... 356
creation of municipal court in city and town of..... 382
ROADS. *See* STATE ROAD. HIGHWAY.

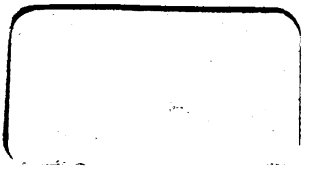
S

SCARBOROR RIVER—dam across..... 74
SCHOOL DISTRICT—Madison a separate, act amended..... 361
No. 2, town of Clinton, authorized to borrow money..... 68
SCOTT, T. B. and others—acts authorizing building of bridge across Wisconsin river by, amended..... 43
SHAW, E. E. and others—authorized to maintain boom, &c..... 75
SHEBOYGAN—certain lands detached from city and annexed to town of... 309
SHEPPARD, A. and J. Valentine, assignees, &c—may keep sheer boom, &c 37
authorized to maintain dam, &c..... 67
SHULLSBURG—incorporation of village of..... 294
SINGING ASSOCIATION of Port Washington—incorporation of..... 80
SLAUSON, J. R. and C. H. Cunningham—authorized to keep boom, &c..... 31
.....do.....do.....and I. Taylor—authorized to maintain dam, &c..... 74
Daniel, and Isaac Taylor—authorized to keep dock and pier..... 17
SOUTHERN BANK—authoriezd to reduce its capital..... 18
ST. CROIX—portions of Flint's additions to, vacated..... 61
STATE OFFICERS—list of..... 3
STATE ROAD—from Ahnepee to Green Bay..... 311
from Merton to Brookfield..... 314
from Kewaunee to Green Bay..... 316
in towns of Franklin, Montpelier and Casco..... 319
in Brown and Kewaunee counties..... 325, 347
from Alma to Prescott..... 326
from Watertown to Columbus..... 327
from Black River Falls to Chippewa Falls..... 327
from Manitowoc to Taycheedah..... 328
in Douglas and La Pointe counties..... 329
STATE STOCK BANK—authorized to reduce its capital..... 74
STEVENS POINT—charter of city of, amended..... 316
people of town of, authorized to hold town meeting..... 382
STILLMAN, Henry W.—authorized to build a dam across Milwaukee river.. 91
SUGAR RIVER VALLEY R. R.—act to incorporate amended..... 333

T

TAYLOR, I. and D. Slauson—authorized to keep dock and pier..... 17
J. R. Slauson and C. R. Cunningham authorized to maintain a dam 74
TITLE—to certain lands in Rock county, quieted..... 331
TOLL BRIDGE across La Plume slough—act of 1856, authorizing J. Lower and others to maintain, amended..... 94
TOLL GATE—authorized across Crawfish river, at Hubbleville..... 60
TOWN MEETING—people of Stevens Point authorized to hold..... 382
TURNERS' SOCIETY of Green Bay—organization of, legalized..... 65
TURNVEREIN of Milwaukee—incorporation of..... 48

UNION HALL CO.—in 87
VACATED—certain h 26
portions of F 61
VALENTINE, J. and ...c.—may keep sheer boom, &c 37
...o maintain a dam, &c..... 67
VIROQUA—removal ...k and Bank of Moneka..... 107

WARDS—changes in ... of Appleton..... 176
WASHINGTON CO— ...ized..... 320
WATCH Manufactnri ...Northwestern..... 24
WATERLOO—act to ...ended..... 268
WATERTOWN—inco ...cal society in city of..... 108
charter of ci 323
state road fr 327
WATERTOWN, Hubl ...own P. R—act to incorporate amen 60
WATER WORKS—co ...lilwaukee..... 349
WAUKESHA CO. BA ...its capital..... 67
WAUPACCA CO.—e: ...d in..... 340
WHITEWATER—add ...pon Home collegiate collage at 62
WISCONSIN—bank ...s capital..... 23
WISCONSIN BANK ...reduce its capital..... 17
WISCONSIN FEMAL ...rporate, amended..... 32
WISCONSIN Mining ...ring Co.—incorporation of... 76
WISCONSIN RIVER ...in..... 13
acts author ...ners to build bridge across, amen 43
act authoriz. ...in ferry across, amended..... 92
WOOD CO.—certain 346
YOUNGS, David—au ...pier..... 7

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